

ALABAMA LAWS
(and Joint Resolutions)
OF THE
LEGISLATURE OF ALABAMA
PASSED AT THE
ORGANIZATIONAL SESSION 1979
SPECIAL SESSIONS 1979
REGULAR SESSION 1979

VOL. II



FOB JAMES, Governor
GEORGE D. H. McMILLAN, Lieutenant Governor
FINIS ST. JOHN, President Pro-Tem of the Senate
JOE C. McCORQUODALE, JR., Speaker of the House
RICHARD S. MANLEY, Speaker Pro-Tem of the House
McDOWELL LEE, Secretary of the Senate
JOHN W. PEMBERTON, Clerk of the House

WITH AN INDEX PREPARED BY THE
LEGISLATIVE REFERENCE SERVICE

The undersigned, as Secretary of State of the State of Alabama, does hereby certify that this book contains bills and joint resolutions enacted at the 1979 Organizational Session, Regular Session and Special Sessions of the Legislature of Alabama and is the official publication of such acts.

Don Siegelman
Secretary of State

SKINNER PRINTING COMPANY

3221 THOMASON AVENUE

MONTGOMERY, ALABAMA

Act No. 79-454

H. 847—Biddle, Trammell, Moore

AN ACT

Relating to Jefferson County; to abolish the office of County Coroner and to provide that all duties, rights and powers authorized or performed by said officer shall be exercised and performed by the Jefferson County Coroner-Medical Examiners' office; to provide for the powers, rights, duties, compensation and composition of such office; to provide for the Jefferson County Coroner-Medical Examiners' Commission; to provide for the powers, rights, duties, composition and terms of office of the members of such commission; and to relieve the members of such commission and other persons from civil or criminal liability.

Be It Enacted by the Legislature of Alabama:

Section 1. As herein used, these terms have the meanings hereby given them:

"Governing Body" means the governing body of Jefferson County;

"The Staff" means the coroner-medical examiners, representatives, and agents this act authorizes the governing body to appoint; and

"The Coroner-Medical Examiners' Office" means the office wherein or wherefrom the staff performs the duties the governing body assigns said staff.

Section 2. In Jefferson County the office of coroner is abolished and all powers, rights, and duties now or hereafter authorized or required by law to be performed by coroners shall be exercised and performed by the governing body through appointed coroners-medical examiners, representatives, or agents, for the performance of such duties in the entire county or in a designated portion thereof, pursuant to this act and the rules promulgated by the herein established Coroner-Medical Examiners' Commission.

Section 3. The employment and compensation of all members of the staff shall be governed by any applicable civil service law.

Each coroner-medical examiner shall be a physician licensed to practice medicine in Alabama and recognized and trained in forensic medicine and pathology; provided, however, that the county governing body may waive this requirement temporarily whenever a vacancy exists in said position which the county governing body is seeking to fill.

Section 4. When there is only one coroner-medical examiner on the staff, he shall be the chief coroner-medical examiner. When there is more than one coroner-medical examiner on the

staff, the governing body shall designate one of them as the chief coroner-medical examiner. Until such designation, the person who has been longest in the continuous service of the county as coroner-medical examiner shall be the chief coroner-medical examiner.

Section 5. The chief coroner-medical examiner shall direct the staff, subject to the supervision of the county governing body and pursuant to this act and any rules and regulations promulgated by the Coroner-Medical Examiners' Commission.

Section 6. There shall be established the Coroner-Medical Examiners' Commission, with the following powers:

(a) To consult with the county governing body on the selection, appointment and retention of the Coroner-Medical Examiner, and such Associate Coroner-Medical Examiners as may be necessary and appropriate to appoint.

(b) To obtain such opinions from the County Attorney and Attorney General and to rely thereon as the Coroner-Medical Examiners' Commission may determine to be necessary to interpret any statutes that pertain to the operation of the Coroner-Medical Examiner function.

(c) To promulgate rules and regulations governing the reviews and investigations of the Coroner-Medical Examiners' Office including the conditions upon which such investigations shall be conducted.

(d) To receive all questions and inquiries concerning the operation of the Coroner-Medical Examiners' function which may be submitted by the Coroner-Medical Examiner, the county governing body, elected or appointed officials, other public officials, private citizens, groups, and any others and to render such answers, statements, opinions, or interpretation thereto as the Coroner-Medical Examiners' Commission may determine to be appropriate.

(e) To solicit and actively work toward full cooperation of all disciplines within the community and all departments of the county government that are associated with the Coroner-Medical Examiner function.

(f) To assist the Coroner-Medical Examiner when and where necessary in the education of the public and their representatives regarding the Coroner-Medical Examiner function.

Section 7. The Coroner-Medical Examiners' Commission shall be composed of the following:

(a) The County Health Officer;

(b) The District Attorney of Jefferson County, or his designated representative;

(c) A representative of the Jefferson County Medical Society selected by said society;

(d) A representative of the Birmingham Bar Association selected by said association;

(e) A representative of the Medical Center of the University of Alabama in Birmingham selected by said center;

(f) Two members of the Jefferson County Legislative Delegation, one from the Senate and one from the House.

(g) A Jefferson County Law Enforcement Officer appointed by the sheriff of Jefferson County; and

(h) Two licensed funeral directors who are residents of Jefferson County, actively engaged in the funeral business in said county, who shall be appointed by the Alabama Board of Funeral Service.

(i) A citizen of Jefferson County appointed by the County Commissioners of Jefferson County.

The Commission members except the ex officio members, shall serve three-year terms, and members shall be eligible to succeed themselves. The Coroner-Medical Examiners' Commission shall elect from its members a chairman and vice chairman to serve for one-year terms, and it shall organize itself into such committees as it deems necessary. The county governing body shall supply staff assistance for the Commission. The county governing body may provide funds for reasonable expenses including meals of the Commission. The Coroner-Medical Examiners' Commission will meet no less than once each quarter of the year, and as often as may be necessary to dispose of business before it and shall report its activities to the county governing body. If any such representative or individual designated in (a) through (g) above should refuse or for any reason fail to serve on said Coroner-Medical Examiners' Commission, the remaining members shall have the power and be authorized to carry out the duties of said Commission.

Section 8. Pursuant to rules and regulations promulgated by the Coroner-Medical Examiners' Commission, it shall be the duty of the Chief and Associate Coroner-Medical Examiners to review or investigate and determine, the cause and manner of any death, when such death may fall within one or more of the following categories subject to the said Commission's power to change said categories:

- (a) criminal violence or criminal neglect
- (b) criminal abortion
- (c) when a body is to be cremated, dissected, or buried at sea
- (d) unclaimed bodies
- (e) when a dead body is brought into this state without proper medical certification
- (f) accident, when requested by surviving spouse, if any, or next of kin
- (g) unexpected death while under anesthesia or within 24 hours following anesthesia, or any other diagnostic or therapeutic procedure with the written permission of the surviving spouse or next of kin
- (h) in any prison or penal institution
- (i) when in police custody
- (j) disease constituting a hazard to public health when requested in writing by the County Health Officer

Section 9. In investigating a death hereunder, the coroner-medical examiner shall be authorized to take charge of the dead body, to investigate the circumstances of the death, to conduct or have conducted an autopsy, and whether or not there is an autopsy, to take and retain whatever tissues and biological samples, including blood and/or urine, he deems necessary from the body of a person which he deems necessary to establish the cause and manner of such person's death, and to take possession of any object or article which in his opinion would be useful in establishing the identity of the deceased and/or the cause and manner of death.

Section 10. There shall be vested in coroners-medical examiners all the authority now or hereafter vested in coroners by the laws of Alabama, including the authority which section 15-4-1, Code of Alabama 1975, vests in coroners and to make inquiry of the facts and circumstances of the death of any person who has been killed or has suddenly died under such circumstances as to afford a reasonable ground for belief that such death has been occasioned by the act of another by unlawful means, and the authority of said section vests in coroners to submit to a judge of a court of record or a district attorney, sworn written statements of witnesses having personal knowledge of such circumstances, and to summon, upon direction of such judge or district attorney, a jury to inquire into the cause and manner of such person's death.

Section 11. The Coroner-Medical Examiners' Commission, members of the Coroner-Medical Examiners' Commission, the county governing body, members of the county governing body, the Coroner-Medical Examiner, Associate Coroner-Medical Examiners and their deputies shall incur no civil or criminal liability for any action taken under this act.

Section 12. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 13. All laws or parts of laws which conflict with this act are hereby repealed.

Section 14. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 26, 1979

Time: 9:45 A.M.

Act No. 79-455

S. 451—Callahan

AN ACT

To prohibit possession of a firearm at demonstrations by anyone other than an on duty law enforcement officer, and prescribe penalties for violations of this Act.

Be It Enacted by the Legislature of Alabama:

Section 1. For the purposes of this Act, the following words and phrases shall have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(1) **DEMONSTRATION** shall mean and include demonstrating, picketing, speechmaking, or marching, holding of vigils and all other like forms of conduct which involve the communication or expression of views or grievances, engaged in by one or more persons, the conduct of which has the effect, intent or propensity to draw a crowd or onlookers. This term shall not include casual use of property by visitors or tourists which does not have an intent or propensity to attract a crowd or onlookers.

(2) **FIREARM** shall mean any pistol, rifle, shotgun, or firearm of any kind, whether loaded or not.

(3) **LAW ENFORCEMENT OFFICER** shall mean any duly

appointed and acting federal, state, county or municipal law enforcement officer, peace officer, or investigating officer, or any military or militia personnel called out or directed by constituted authority to keep the law and order, and any park ranger while acting as such on the grounds of a public park and who is on regular duty and present to actively police and control the demonstration, and who is assigned this duty by his department or agency. Said definition does not include a peace officer on strike or a peace officer not on duty.

(4) **PUBLIC PLACE** shall mean any place to which the general public has access and a right to resort for business, entertainment or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall include the front or immediate area, parking lot of any store, shop, restaurant, tavern, shopping center or other place of business. It shall also include any public building, the grounds of any public building, or within the curtilage of any public building, or in any public parking lot, public street, right-of-way, sidewalk right-of-way, or within any public park or other public grounds.

Section 2. It shall be unlawful for any person, other than a law enforcement officer, to have in his or her possession or on his or her person or in any vehicle any firearm while participating in or attending any demonstration being held at a public place.

Section 3. It shall be unlawful for any person, other than a law enforcement officer as herein defined, to have in his or her possession or about his or her person or in any vehicle at a point within 1,000 feet of a demonstration at a public place, any firearm after having first been advised by a law enforcement officer that a demonstration was taking place at a public place and after having been ordered by such officer to remove himself or herself from the prescribed area until such time as he or she no longer was in possession of any firearm. This section shall not apply to any person in possession of or having on his or her person any firearm within a private dwelling or other private building or structure.

Section 4. Any person violating any of the provisions of this Act shall be guilty of a misdemeanor and shall be punished as provided by law.

Section 5. The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 6. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise

becoming a law.

Approved July 26, 1979

Time: 11:20 A.M.

Act No. 79-456

H. 831—Owens

AN ACT

To establish a Capitol Complex Maintenance and Repair Fund and to authorize the Department of Finance to charge rent on state buildings and to appropriate same.

Be It Enacted by the Legislature of Alabama:

Section 1. The Department of Finance shall charge reasonable rent for the use and occupancy of any building owned by the State, with the exception of the State Capitol building, located in the Capitol Complex and maintained by the Department of Finance or any other building maintained by the Department of Finance now or in the future. The Director of Finance shall establish such rent at rates which shall not be more than an amount sufficient to pay the reasonable costs of operation, maintenance, repair, renovation and any other necessary expenses.

Section 2. All rents collected, and income earned from such rents, under the provisions of this Act shall be deposited into a revolving fund in the state treasury designated as the Capitol Complex Maintenance and Repair Fund, and the Director of Finance is authorized to make deposits and expenditures from time to time from such fund for said purposes.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor or by its otherwise becoming a law.

Approved July 26, 1979

Time: 3:45 P.M.

Act No. 79-457

S. 482—White and Teague

AN ACT

To provide for secret Grand Jury proceedings and that secrecy inviolate; and further, to provide for the form and content of Grand Jury Reports, and to set criminal penalties for the unauthorized solicitation of, release and/or disclosure of

evidence, testimony and other matters pertaining to Grand Jury proceedings; provides for an oath of secrecy to be given Grand Jury witnesses, and further proscribes criminal penalties for the obstruction of Grand Jurors, Grand Jury witnesses and their testimony.

Be It Enacted by the Legislature of Alabama:

Section 1. The legislature hereby finds, declares and determines that it is essential to the fair and impartial administration of justice that all Grand Jury proceedings be secret and that the secrecy of such proceedings remain inviolate. The provisions of this act are to be construed for the accomplishment of this purpose and to promote the following:

(a) That Grand Juries have the utmost freedom in their discussions, deliberations, considerations, debates, opinions, and votes without fear or apprehension that the same may be subsequently disclosed, or that they may be subject to outside pressure or influence or injury in their person or property as a result thereof.

(b) That those persons who have information or knowledge with respect to the commission of crimes or criminal acts be encouraged to testify freely and truthfully before an appropriate Grand Jury without fear or apprehension that their testimony may be subsequently disclosed, or that they may be subject to injury in their person or property as a result thereof.

(c) That those persons who have committed criminal acts or whose indictment may be contemplated not escape or flee from the due administration of justice.

(d) That those persons falsely accused of criminal acts are not subject to public scrutiny or display and their otherwise good names and reputations are left intact.

SECTION II. No past or present Grand Juror, past or present Grand Jury witness or Grand Jury Reporter or stenographer shall wilfully at any time directly or indirectly, conditionally or unconditionally, by any means whatever, reveal, disclose or divulge or attempt or endeavor to reveal, disclose or divulge or cause to be revealed, disclosed or divulged, any knowledge or information pertaining to any Grand Jurors; questions, considerations, debates, deliberations, opinions or votes on any case, evidence, or other matter taken within or occurring before any Grand Jury of this state; nor shall any person at any time, directly or indirectly, conditionally or unconditionally by any means whatever, corruptly or with intent to influence a Grand Juror or other person authorized by law to attend a Grand Jury, or by threat of harm to person or property, or by force applied to

person or property, or by threatening letter or communication, or by offer of reward, remuneration, gift, benefit, or thing of value of whatever nature or kind, obtain or endeavor to obtain, any information pertaining to, or any knowledge of any Grand Juror's questions, considerations, debates, deliberations, opinions or votes on any case, evidence or other matter taken or transpiring within or before any Grand Jury of this State.

SECTION III. No past or present Grand Juror, past or present Grand Jury witness or Grand Jury Reporter or stenographer shall wilfully at any time, directly or indirectly, conditionally or unconditionally, by any means whatever, reveal, disclose or divulge or endeavor to reveal, disclose or divulge or cause to be revealed, disclosed or divulged, any knowledge of the form, nature or content of any physical evidence presented to any Grand Jury of this state or any knowledge of the form, nature or content of any question propounded to any person within or before any Grand Jury or any comment made by any person in response thereto or any other evidence, testimony, or conversation occurring or taken therein; nor shall any person at any time directly or indirectly, conditionally or unconditionally, by any means whatever, corruptly or with intent to influence a Grand Juror or other person authorized by law to attend a Grand Jury, or by threats of harm to person or property, or by force applied to person or property or by threatening letter or communication, or by offer of reward, remuneration, gift, benefit or thing of value of whatever nature and kind, obtain or endeavor to obtain any knowledge of the form, nature or content of any physical evidence presented to any Grand Jury of this state, or any knowledge of the form, nature or content of any question propounded to any person within or before any Grand Jury, or any knowledge of the form, nature or content of any answer or comment made by any person in response thereto, or any other evidence, testimony, or conversation occurring or taken therein.

Provided however, the State of Alabama shall not be precluded from using the testimony of a Grand Jury witness to impeach that witness's testimony in the trial of a criminal case, nor shall the State of Alabama be precluded from using Grand Jury testimony to prosecute a perjury warrant or indictment, nor shall the State of Alabama be precluded from using Grand Jury testimony in any manner otherwise permitted by law. Further, provided however, that Grand Jury evidence and testimony may be presented to Grand Juries of other circuits and jurisdictions upon the issuance of a proper Grand Jury subpoena.

SECTION IV. No person shall wilfully by any means

whatever, directly or indirectly, conditionally or unconditionally, obstruct, impede or prevent or attempt or endeavor to obstruct, impede or prevent any person summoned, subpoenaed or called to testify before any Grand Jury of this state or who may be summoned, subpoenaed or called before any such Grand Jury from attending or appearing before the same. Nor shall any person, by any means whatever, directly or indirectly, conditionally or unconditionally induce or coerce or attempt or endeavor to induce or coerce any such person to give any false testimony or withhold any true testimony within or before such Grand Juries.

SECTION V. No person shall injure or endeavor to injure the property or person of any Grand Juror, witness, prosecutor, judicial officer, or Grand Jury Reporter as a result of their participation in, appearance, or testimony before any duly empaneled Grand Jury.

SECTION VI. Any Prosecutor, Grand Jury Foreman, or Circuit Court may require all persons testifying in or before a Grand Jury to submit to an oath or affirmation of secrecy. The failure of any witness to be so sworn shall not relieve such witness of any criminal liability imposed by this Act.

SECTION VII. Grand Jury evidence other than the questions, considerations, debates, deliberations, opinions or votes of any Grand Juror may be disclosed by a District Attorney or other prosecutor in the performance of his official duties to members of his staff for the purposes of bona fide criminal investigations and prosecutions.

SECTION VIII. A District Attorney or other prosecutor may, in his or her discretion, disclose evidence taken within or before the Grand Juries of such Circuit to law enforcement officers for the purpose of bona fide investigations into violations of criminal law.

A District Attorney or a Circuit Judge, in the public interest, may disclose the date, time and place that a particular case will be or was presented to a Grand Jury, or that a particular matter or case was continued by a Grand Jury and to what date, if any, or that a No Bill or an Indictment was returned thereon, or that a particular defendant was otherwise exonerated or falsely accused.

SECTION IX. No provision of this Act shall be construed to deny a witness or criminal defendant the right to confer with or be represented by counsel concerning his appearance within or testimony before a duly empaneled Grand Jury, provided however, nothing contained in this section shall be construed so as to permit or authorize such persons to be accompanied by counsel within a Grand Jury.

SECTION X. Grand Juries shall make no reports critical of any citizen of this state without returning an indictment or bill of impeachment against the same. It shall be the duty of the Circuit Judges of the respective Judicial Circuits of this state, on their own motion, to expunge from any such Grand Jury Report any and all such critical portions unless there has been an indictment or bill of impeachment returned against the person or persons affected. Provided however, this section shall not be construed to prohibit a Grand Jury from examining and reporting upon the condition of any public facility, agency or account or the books and records thereof, where such examination and reporting is specifically authorized by statute.

SECTION XI. The Grand Juries of this state may make written reports as provided by law, however, the Judges of each Judicial Circuit may provide by court rule for the form and content of such Grand Jury Reports to accomplish the purposes of this act.

SECTION XII. Any person violating the provisions of Sections II, III, IV, and V of this Act shall be guilty of a felony and shall be punished by imprisonment for not less than one (1) nor more than three (3) years, or fined not more than \$5,000.00, or both.

SECTION XIII. All laws or parts of laws in conflict with the provisions of this Act are hereby repealed; provided, however, the criminal penalties imposed by this Act shall be cumulative. This Section shall not be construed to preclude the applicability of other provision of the criminal laws of this State which presently apply or may in the future apply to any transaction or event which violates the provisions of this Act unless such provision is inconsistent with the terms of this Act. Nor shall the Circuit Courts of this State be precluded from utilizing any contempt powers or sanctions which may apply to Acts or events which violate the provisions of this Act. Further, the Circuit Judges of this State may issue whatever other reasonable orders as may be necessary to accomplish the purposes of this Act.

SECTION XIV. The provisions of this Act are severable. If any part of this Act is declared unconstitutional in content or application, such declaration shall not effect that part which remains.

SECTION XV. This Act shall become effective upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 28, 1979

Time: 10:00 A.M.

AN ACT

To make annual appropriations for the support, maintenance, and development of public education in Alabama and for debt service and capital improvements for the fiscal year ending September 30, 1980.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated, for the support of public education in Alabama for the fiscal year ending September 30, 1980 and for the public debt, to be paid out of funds specified in subsection (a) of Section 2 of this Act, the amounts specified in Section 3 to 9, inclusive. For the purpose specified in subsection (b) of Section 2 of this Act, amounts are shown by programmatic area and the total for all programs are shown so as to include estimated sources of funds other than the appropriation made in subsection (a) of Section 2 of this Act. For the purpose of this Act, "ASETF" shall mean Alabama Special Educational Trust Fund.

Section 2. (a) The appropriations provided for in this Act shall be paid from funds in the State Treasury to the credit of the Alabama Special Educational Trust Fund and Alabama Special Educational Trust Fund Surplus Account and are hereby made for the support of public education in Alabama for the fiscal year ending September 30, 1980 and except as may be otherwise expressly provided, the appropriations herein made shall be subject to the provisions, terms, conditions and limitations of the Budget and Financial Control Act (Article 4, Chapter 4, Title 41 of the Code of Alabama 1975), the provisions of Act No. 494 adopted at the 1976 Regular Session, and shall be in the amounts hereinafter specified.

(b) Amounts shown herein under the columns "Federal and Other Funds" and "Total" are set forth for the purpose of indicating amounts estimated to be available by programmatic area from sources other than from appropriations made in subsection (a) of this Section 2, in order, upon consideration of such other funds so estimated to be available, to promote the accountability for and efficient use of the funds available to and hereby appropriated by the legislature, it being the intention hereof to make appropriations only from the funds referred to in subsection (a) of this Section 2.

Provided, that if, at the end of any fiscal year, a pay period which has been or may be established by the Legislature providing for the payment of salaries of State employees overlaps from one fiscal year into the next fiscal year, payment for the total pay period shall be made from the new fiscal year's appropriation.

	ASETF	Trust Funds	Approp. Total
A. STATE AGENCIES			
1. Alabama Academy of Honor			
(a) Historical Resources Management Program			1,000
SOURCE OF FUNDS:			
(1) ASETF	1,000		
Total Alabama Academy of Honor	1,000		1,000
2. Council on the Arts and Humanities			
(a) Fine Arts Program			914,098
(b) Birmingham Symphony			200,000
(c) Alabama Shakespeare Festival			25,000
SOURCE OF FUNDS:			
(1) ASETF	525,000		
(2) Federal and Local Funds		614,098	
Total Council on Arts and Humanities	525,000	614,098	1,139,098
3. Debt Service			871,000
(a) For the payment of principal and interest due on bonds issued by the University of Alabama Research-Institute pursuant to Constitutional Amendment No. CLVII	211,256		
(b) Interest on Endowments:			
For interest on University of Montevallo (Alabama College) Endowment, Estimated	45,000		
For interest on Auburn University Endowment	20,280		
For interest on University of Alabama Endowment	61,000		
For interest on Grove Hill Endowment	600		
For interest on Public School Fund Endowment:			
Interest on 16th Section lands, Estimated	410,000		

Interest on School Indemnity lands, Estimated	90,000
Interest on Valueless 16th Section lands	5,825
Interest on Surplus plus Revenue	26,764
Interest on James Wallace Fund	275

Total	659,744
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SOURCE OF FUNDS:

(1) ASETF	871,000	
Total Debt Service	871,000	871,000

4. Board of Dental Scholarship Awards

(a) Support of Other Educational Activities Program	228,000
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SOURCE OF FUNDS:

(1) ASETF	228,000	
Total Board of Dental Scholarship Awards	228,000	228,000

(To be expended under the provisions of Act No. 662, 1977 Regular Session.)

5. Alabama Development Office

(a) Promotional Development Program	70,000
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SOURCE OF FUNDS:

(1) ASETF	70,000	
Total Alabama Development Office	70,000	70,000

6. Department of Education

(a) Financial Assistance Program	233,989,301
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The proposed spending plan for the above is as follows:

Vocational Education Program	48,600,000
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SOURCE OF FUNDS:

(1) ASETF	48,600,000
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(2) Federal and Local Funds 185,389,301

Total Financial Assistance Program	48,600,000	185,389,301	233,989,301
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The appropriation hereinabove for Vocational Education shall be disbursed or obligated in accordance with rules and regulations approved by the State Board of Education upon recommendation of the State Superintendent.

In the event proration should become necessary due to the loss of Federal Vocational Funds, each local board shall be reduced by its prorata share under the adopted State Board of Education formula.

(b) Instructional Technical Assistance Program 5,512,871

The proposed spending plan for the above is as follows:

Civil Defense	24,200
Driver Education, School Bus	
Driver Training & Vehicle	
Safety Inspection	121,437
Drug Education	100,000
Operation & Maintenance of	
Department	610,166
Right-to-Read	81,600
Career Education	105,600
Kindergarten Adm.	85,000
Minimum Program — Train-	
able Retarded Chil-	
dren	525,000
Vocational Education.....	700,000

SOURCE OF FUNDS:

(1) ASETF	2,353,003	
(2) Federal and Local Funds		3,159,868

Total Instructional Technical Assistance Program	2,353,003	3,159,868	5,512,871
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(The appropriation for Minimum Program — Trainable

Retarded Children is the same appropriation as set out in Act No. 67, approved June 27, 1963, and shall be expended in accordance with that Act.)

(c) Local Agency Support Program			11,277,153
The proposed spending plan for the above is as follows:			
Coordination of In-School Television	122,000		
Driver Education, School Bus Driver Training and Vehicle Safety Inspection	235,000		
Operation & Maintenance of Department	286,134		
Testing	709,000		
Free Textbooks	8,500,000		
Plans & Surveys	86,500		
Facilities Survey	25,000		
Publishing Legal & Policy Manuals	3,000		
SOURCE OF FUNDS:			
(1) ASETF	9,966,634		
(2) Federal and Local Funds		1,310,519	
Total Local Agency Support Program	9,966,634	1,310,519	11,277,153
(d) Regulation Program			1,330,044
The proposed spending plan for the above is as follows:			
Administration of Private School Act	49,500		
Operation & Maintenance of Department	330,000		
Teacher Certification & Accreditation	227,000		
SOURCE OF FUNDS:			
(1) ASETF	606,500		
(2) Federal and Local Funds		950,544	
Total Regulation Program ..	606,500	950,544	1,557,044
(e) Administrative Services Program			10,014,285

The proposed spending plan
for the above is as follows:

Compact for
Education 29,000
Operation & Maintenance of
Department 1,673,700
Telephone Network
Fund 1,200,000

SOURCE OF FUNDS:

(1) ASETF	2,902,700		
(2) Federal and Local Funds		7,111,585	
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Total Administrative Ser- vices Program	2,902,700	7,111,585	10,014,285
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The above appropriation shall
include a transfer to the State
Personnel Department of
\$71,421.

(f) Adult Basic Education Pro-
gram 2,928,480

The proposed spending plan
for the above is as follows:

Adult Basic
Education 1,000,000
Community Education 96,000

SOURCE OF FUNDS:

(1) ASETF	1,096,000		
(2) Federal and Local Funds		1,832,480	
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Total Adult Basic Education Program	1,096,000	1,832,480	2,928,480
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(g) Rehabilitation Services Pro-
gram 33,751,138

(A) Rehabilitation Services
Program 6,400,000

(B) Handicapped Recreation
Program (to provide
recreation at a year
round accredited handi-
capped recreation fa-
cility) 200,000

SOURCE OF FUNDS:

(1) ASETF	6,600,000		
(2) Federal and Local Funds		27,351,138	
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Total Rehabilitation Services Program	6,600,000	27,351,138	33,951,138
(h) Hemophilia Program			300,000
SOURCE OF FUNDS:			
(1) ASETF	300,000		
Total Hemophilia Program	300,000		300,000
(As provided for under Act 1181, 1975 Regular Session.)			
(i) Homebound Program			2,600,000
SOURCE OF FUNDS:			
(1) ASETF	2,600,000		
Total Homebound Program	2,600,000		2,600,000
(The above appropriation is to be expended in accordance with Act No. 109, Third Special, 1975, approved May 1, 1975.)			
(j) Disability Determination for Social Security Program			7,616,001
SOURCE OF FUNDS:			
(1) Federal and Local Funds		7,616,001	
Total Disability Determination for Social Security Program		7,616,001	7,616,001
(k) Crippled Children Services Program			7,339,600
SOURCE OF FUNDS:			
(1) ASETF	4,304,000		
(2) Federal and Local Funds		3,035,600	
Total Crippled Children Services Program	4,304,000	3,035,600	7,339,600
(l) Skill Enhancement and Employment Opportunities			7,179,110
The proposed spending plan for the above is as follows:			
Comprehensive Employment & Training	250,000		
SOURCE OF FUNDS:			
(1) ASETF	250,000		

(2) Federal and Local Funds 6,929,110

Total Skill Enhancement and Employment Opportunities Program	250,000	6,929,110	7,179,110
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(m) Planning and Coordination
Services Program 287,000

The proposed spending plan
for the above is as follows:
Southern Regional Educa-
tional Board 287,000

SOURCE OF FUNDS:

(1) ASETF 287,000

Total Planning & Coordina- tion Services Program	287,000	287,000
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(n) Support of Other Educa-
tional Activities 10,000

The proposed spending plan
for the above is as follows:
Education of Dependents of
Blind Parents 10,000

SOURCE OF FUNDS:

(1) ASETF 10,000

Total Support of Other Edu- cational Activities	10,000	10,000
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For reimbursement of every
State Institution of Higher
Learning, College, Univer-
sity, or Trade School or
Junior College, in which
benefits are given to depend-
ents of blind parents under
the provisions of Act No.
281, 1966 Special Session.

(o) Emergency Medical Services
Education Program 1,350,000

To be distributed by the Depart-
ment of Education as follows:

(1) West Alabama Emergency
Medical Services, Inc. 225,000

(2) Birmingham Regional Emer-

gency Medical Services System	225,000
(3) North Alabama Emergency Medical Services, Inc.	225,000
(4) Southeast Alabama Emergency Medical Services System, Inc.	225,000
(5) East Alabama Emergency Medical Services, Inc.	225,000
(6) Southwest Alabama Emergency Medical Services Council, Inc.	225,000

The amounts herein appropriated shall be used for the operation and maintenance of the various medical services programs named and for the purchase of instructional supplies and new instructional equipment for such programs.

SOURCE OF FUNDS:

(1) ASETF	1,350,000
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Total Emergency Medical Services Education Program	1,350,000	1,350,000
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TOTAL DEPARTMENT OF EDUCATION

SOURCE OF FUNDS:

(1) ASETF	81,225,837
(2) Federal & Local Funds	244,686,146

Grand Total Department of Education	81,225,837	244,686,146	325,911,983
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(7) Examiners of Public Accounts

(a) Legislative Support — Audit Services Program	1,000,000
For purposes of auditing all phases of public education.	

SOURCE OF FUNDS:

(1) ASETF	1,000,000
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Total Examiners of Public Accounts	1,000,000	1,000,000
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8. Alabama School of Fine Arts			
(a) Fine Arts Program			880,000
SOURCE OF FUNDS:			
(1) ASETF	800,000		
(2) Federal and Local Funds		80,000	
<hr/>			
Total Alabama School of Fine Arts	800,000	80,000	880,000
<hr/>			
9. Alabama Firefighters' Personnel Standards and Education Commission			
(a) Professional and Occupational Licensing & Regulation Program			135,000
SOURCE OF FUNDS:			
(1) ASETF	135,000		
<hr/>			
Total Alabama Firefighters' Personnel Standards and Education Commission	135,000		135,000
<hr/>			
10. Health Department			
(a) Health Support Services Program			500,000
For immunization of pre-school children and students and for public school food sanitation.			
(b) For the Division of Maternal and Child Health			250,000
Provided, however, that the above appropriation shall be expended only for the development of a perinatal program whose expenditure guidelines shall be developed in conjunction with the Perinatal Advisory Committee of the State Committee of Public Health. Such guidelines shall be comprehensive enough to serve as a statewide perinatal plan in meeting Federal matching requirements.			

SOURCE OF FUNDS:

(1) ASETF	750,000	
Total Health Department	750,000	750,000

11. Commission on Higher Education

(a) Planning & Coordinantion Services Program		625,076
(b) Alabama Student Assistance Program		2,306,367
(c) Alabama Student Grant Program		3,000,000

SOURCE OF FUNDS:

(1) ASETF	4,745,000	
(2) Federal and Local Funds		1,186,443
Total Commission on Higher Education	4,745,000	1,186,443
		5,931,443

The Alabama Student Grant funds are to be expended in accordance with Act No. 90, 1978 Second Special Session.

12. Alabama Historical Commission

(a) Historical Resources Management Program		135,000
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SOURCE OF FUNDS:

(1) ASETF	135,000	
Total Alabama Historical Commission	135,000	135,000

The above appropriation shall be expended as follows:
 Fort Toulouse 85,000
 Historic Blakely Foundation 50,000

13. Alabama Industrial Development Training Institute

(a) Industrial Training Program		1,500,000
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SOURCE OF FUNDS:

(1) ASETF	1,500,000	
Total Alabama Industrial Development Training Institute	1,500,000	1,500,000

14. Junior College School System

(a) Academic Instruction and
Institutional Support Pro-
gram

63,098,188

SOURCE OF FUNDS:

(1) ASETF	39,550,000	
(2) Federal and Local Funds		7,415,844
(3) State Funds		315,404
(4) Other Funds		10,599,380
(5) Auxiliary Enterprises		5,217,560

Total Junior College School

System	39,550,000	23,548,188	63,098,188
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This appropriation to the Alabama State Board of Education for the Junior College Equalization Account is to be used for operation and maintenance of the Junior Colleges listed below and is to be distributed on the following formula:

\$200,000.00 to each Junior College. The remainder of the appropriation is to be allotted to each Junior College in accordance with its percentage of the total credit hours attempted for the four quarters of the school year 1978-79 by all the Junior Colleges listed in this appropriation. Junior colleges with credit producing programs in Alabama Correctional Institutions shall be reimbursed for tuition that is waived.

Continuing education unit hours shall be excluded from the computations herein required. (The above appropriation is to be distributed to the following Junior Colleges: (1) Alexander City State Junior College; (2) S. D. Bishop State Junior College; (3) Brewer State Junior College; (4) John C. Calhoun State Community College; (5) Chattahoochee Valley Community College (Phenix City); (6) Jefferson Davis State Junior College; (7) Enterprise State Junior College; (8) James H. Faulkner State Junior College; (9) Gadsden State Junior College; (10) Patrick Henry State Junior College; (11) Jefferson State Junior College; (12) Theodore A. Lawson State Community College; (13) Northeast Alabama State Junior College; (14) Northwest Alabama State Junior College; (15) Snead State Junior College; (16) Southern Union State Junior College; (17) George Corley Wallace State Community College (Selma); (18) George C. Wallace State Community College (Dothan); (19) Lurleen B. Wallace State Junior College; (20) George C. Wallace Community College at Hanceville; (21) Shelton State Community College.) Of the above appropriations contained herein in Section 3, paragraph A-14 not more than the sum of \$300,000 may be used by the State Board of Education for administration of the state junior college program.

15. Alabama Law Institute

(a) Support of Other Educational
Activities Program

205,000

SOURCE OF FUNDS:			
(1) ASETF	205,000		
Total Alabama Law Institute	205,000		205,000
<hr/>			
16. Legislature			
(a) Legislative Operations & Support Program			1,250,000
SOURCE OF FUNDS:			
(1) ASETF	1,250,000		
Total Legislature	1,250,000		1,250,000
<hr/>			
17. Public Library Service			
(a) Public Library Service Program			3,783,355
SOURCE OF FUNDS:			
(1) ASETF	2,750,000		
(2) Federal and Local Funds		1,033,355	
Total Public Library Services	2,750,000	1,033,355	3,783,355
<hr/>			
18. Marine Environmental Sciences Consortium			
(a) Support of other Educational Activities Program			691,922
SOURCE OF FUNDS:			
(1) ASETF	512,000		
(2) Federal and Local Funds		79,922	
(3) University of Alabama ...		100,000	
Total Marine Environmental Sciences Consortium	512,000	179,922	691,922
<hr/>			
19. Medical Scholarships Board			
(a) Support of other Educational Activities Program			711,000
SOURCE OF FUNDS:			
(1) ASETF	711,000		
Total Medical Scholarship Board	711,000		711,000
<hr/>			
(To be expended under the provisions of Act No. 663, 1977 Regular Session.)			

20. Minimum Program

(a) Financial Assistance Program 406,083,975

SOURCE OF FUNDS:

(1) ASETF 386,083,975

(2) Public School Fund 20,000,000

Total Minimum Program

Fund 386,083,975 20,000,000 406,083,975

The above appropriation shall be paid in accordance with Title 16, Article 3 of Code of Alabama 1975 and all other legislation pertaining thereto.

The appropriation hereinabove set out for the fiscal year 1979-80 is based on 24,716 teacher units.

It is provided in the event there are more than 24,716 earned teacher units for the fiscal year 1979-80, then such amounts necessary to pay for these excess teacher units is hereby appropriated. It is further provided that in the event that there be less earned teacher units than those set out above then the amount that would have been necessary to pay for these earned teacher units shall not be allotted or paid.

In allocating the funds in sub-section (a) the State Board of Education shall allot as follows:

The amount necessary for the payment of Board of Adjustment awards in accordance with the Minimum Program statutes and regulations.

For "Other Current Expenses" a sum not to exceed \$2,315.00 for each earned teacher unit.

For Principal Supplement the sum shall not exceed \$100.00 for each earned teacher unit.

For Capital Improvements the sum shall not exceed \$64.87 for each earned teacher unit.

The above appropriation contained in sub-section (a) shall include an allotment for transportation in accordance with the formula adopted by the State Board of Education for the distribution of the funds to be used for transportation purposes but shall not exceed the sum of \$40,861,694.00.

20A. BOARD OF EDUCATION

(a) Financial Assistance Program 177,230,986

SOURCE OF FUNDS:

(1) ASETF 177,230,986

Total Board of Education177,230,986

177,230,986

- (aa) To be distributed by State
Board of Education for:
Hospital Medical Insurance
Assistance for Professional
Staff, Support Staff, and
Adult School Bus
Drivers15,427,961

Of the appropriation hereinabove made for Hospital Medical Insurance there is hereby appropriated the sum of two hundred forty-seven dollars and twenty cents (\$247.20) per annum per teacher, administrative, supervisory unit, full time support employee, and adult school bus drivers.

- (bb) Teachers Sick Leave 3,890,000

Of the appropriation hereinabove made for Teachers Sick Leave the rate of not more than \$17.00 per day is hereby appropriated.

- (cc) Support Personnel Sick
Leave 800,000

The appropriation hereinabove shall provide sick leave in accordance with Act No. 208, 1977 Regular Session.

- (dd) Teachers Personal
Leave1,300,000

The appropriation hereinabove made to Teachers Personal Leave provides for two (2) days personal leave at \$17.00 per teacher unit for each teacher employed (except ESEA Title I, Title III and Title IV teachers and ESAA teachers).

- (ee) Funds to Replace
Fees10,500,000

Of the appropriation hereinabove made for Funds to Replace Fees there is hereby appropriated two hundred and fifty dollars (\$250) per teacher unit for grades K-6 and three hundred dollars (\$300) per teacher unit for grades 7-12 for all teachers employed (except ESEA Title I, Title III and Title IV teachers and ESAA teachers).

- (ff) Maintenance6,000,000
(gg) Continuation of funds previously granted for Special
Education25,500,000

Of the appropriation hereinabove made \$1,200,000 shall be allocated to local boards of education and administered through the State Department of Education for meeting matching requirements of Federal Legislation (P. L. 94-482) for vocational education for the handicapped.

Of the \$25,500,000 for Special Education, \$250,000 shall be allocated to the Tuscaloosa Regional Handicapped School, \$250,000 shall be allocated to the Southwest Alabama School for Deaf and Blind and \$250,000 for the Vivian B. Adams School. An amount approved by the State Board of Education may be distributed by the State Board of Education to the Alabama Institute for Deaf and Blind to implement the purposes of Act 106 and P. L. 94-142.

(hh) Salary Increases for Lunch-room Workers Formerly Granted 7,747,000

(ii) Kindergarten teacher units 13,164,649

The above appropriation is for 880 teacher units and includes salaries, other current expenses, and capital outlay at the same rate as provided in the Minimum Program.

(jj) Continuation of Teacher units to reduce pupil-teacher ratio in grades 1-6 9,723,888

The above appropriation is for 650 teacher units and includes salaries, other current expenses, and capital outlay at the same rate as provided in the Minimum Program.

(kk) Supportive teacher units 26,073,336

The above appropriation provides for one extra unit or fraction thereof for each aggregate of fifteen units or fraction thereof earned on regular units in the Minimum Program, Kindergarten units in (ii) and additional teacher units in (jj). The above appropriation is for 1,743 teacher units and includes salaries, other current expenses, and capital outlay at the same rate as provided in the Minimum Program.

(ll) Driver Education teacher units 7,479,914

The above appropriation is for 500 teacher units and includes salaries, other current expenses, and capital outlay at the same rate as provided in the Minimum Program.

- (mm) Special Education.... 49,624,238
The above appropriation is for 3,250 teacher units and includes salaries, other current expenses, capital outlay, and transportation at the same rate as provided in the Minimum Program.

21. Alabama Board of Nursing:

- (a) Professional and Occupational Licensing and Regulation Program

537,191

SOURCE OF FUNDS:

- (1) ASETF as provided in Act No. 68, 1977 Special Session.

Scholarships for Graduate Nurses

51,300

- (2) Alabama Board of Nursing Trust Fund as provided in Title 34, Chapter 21, Code of Alabama 1975, as amended

485,891

Total Alabama Board of Nursing

51,300

485,891

537,191

22. Alabama Occupational Information System:

- (a) Employment and Social Opportunities Program

317,970

The above appropriation shall include a transfer to the Telephone Network Fund of \$5,598.

SOURCE OF FUNDS:

- (1) Federal and Local Funds

317,970

Total Alabama Occupational Information System

317,970

317,970

23. Alabama Peace Officers Standards and Training Commission:			
(a) Professional and Occupational Licensing and Regulation Program			72,280
(b) Certified Law Enforcement Academy Programs			221,500
Jacksonville State University	55,375		
University of Alabama	55,375		
James H. Faulkner Jr. Col.	55,375		
Troy State Univ.			
Montgomery	55,375		
SOURCE OF FUNDS:			
(1) ASETF	293,500		
(2) Federal and Local Funds		280	
<hr/>			
Total Alabama Peace Officers Standards and Training Commission	293,500	280	293,780
<hr/>			
24. Commission on Physical Fitness:			
(a) Advisory Services Program			80,000
SOURCE OF FUNDS:			
(1) ASETF	80,000		
<hr/>			
Total Commission on Physical Fitness	80,000		80,000
<hr/>			
25. Post-Secondary Vocational-Technical Education System:			
(a) Instructional and Institutional Support Program			42,659,380
SOURCE OF FUNDS:			
(1) ASETF	32,451,521		
(2) Federal and Local Funds		1,154,990	
(3) Other Funds		5,843,902	
(4) Auxiliary Enterprises		3,208,967	
<hr/>			
Total Post-Secondary Vocational-Technical Education System	32,451,521	10,207,859	42,659,380
<hr/>			
For the operations and maintenance of the Vocational Technical Schools listed be-			

low, to be distributed in accordance with a formula adopted by the State Board of Education.

(The above appropriation is to be distributed to the following Vocational-Technical Schools: (1) Atmore State Technical Institute; (2) Alabama Aviation and Technical College; (3) Alabama Technical College; (4) Harry M. Ayers State Technical College; (5) Bessemer State Technical College; (6) John C. Calhoun State Community College - Technical Division; (7) Carver State Technical College; (8) J. F. Drake State Technical College; (9) Gadsden State Technical Institute; (10) Richmond P. Hobson State Technical College; (11) J. F. Ingram State Technical Institute; (12) Theodore A. Lawson State Community College-Technical Division; (13) Douglas McArthur State Technical College; (14) Muscle Shoals State Technical College; (15) Northwest State Technical College; (16) N. F. Nunnley State Technical College; (17) Opelika State Technical College; (18) John M. Patterson State Technical College; (19) Ed E. Reid State Technical College; (20) Shelton State Technical College; (21) Southwest State Technical College; (22) Chauncey Sparks State Technical College; (23) Council Trenholm State Technical College; (24) C. A. Fredd State Technical College; (25) Walker State Technical College; (26) George Corley Wallace State

Community College-Technical Division (Selma); (27) George C. Wallace State Community College Technical Division (Dothan); (28) George C. Wallace State Community College - Technical Division (Hanceville).

Of the above appropriations contained herein in Section 3 (a) (24) not more than the sum of \$300,000 may be used by the State Board of Education for administration of the Vocational-Technical School Program.

26. Social Security

(a) For State's share of Social Security, Estimated		55,000.00
SOURCE OF FUNDS:		
(1) ASETF	55,000,000	
Total Social Security	55,000,000	55,000,000

27. Sports Hall of Fame

(a) Historical Resources Management Program		46,000
SOURCE OF FUNDS:		
(1) ASETF	30,000	
(2) Sports Hall of Fame Operating Fund		16,000
Total Sports Hall of Fame ...	30,000	16,000
		46,000

28. Alabama Education Study Commission

(a) Advisory Services Program		189,000
SOURCE OF FUNDS:		
(1) ASETF	189,000	
Total Alabama Education Study Commission	189,000	189,000
(To be used for educational studies in accordance with Act No. 15, 1969 Special Session.)		

29. Teachers' Retirement System of Alabama

(a) Retirement Systems Program, Estimated			157,761,924
SOURCE OF FUNDS:			
(1) ASETF-Teachers' Retirement System	148,800,900		
(2) ASETF-Teachers' Special Pension Fund	8,961,024		
<hr/>			
Total Retirement Systems Program (State's Share)	157,761,924		157,761,924
<hr/>			
The above appropriation shall be expended in accordance with the statutes and regulations now or hereafter existing relating to the expenditure of such Teachers' Retirement Fund			
30. State Tenure Commission			
(a) Regulation Program			9,000
SOURCE OF FUNDS:			
(1) ASETF	9,000		
<hr/>			
Total State Tenure Commission	9,000		9,000
<hr/>			
31. Educational Television Commission			
(a) Educational TV Services Program			2,460,103
(b) Public Radio Services Program			160,000
SOURCE OF FUNDS:			
(1) ASETF	2,000,000		
(2) Federal and Local Funds		620,103	
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Total Educational TV Commission	2,000,000	620,103	2,620,103
<hr/>			
32. Veterans Education Benefits			
(a) Administration of Veterans Affairs Program			1,215,000
SOURCE OF FUNDS:			
(1) ASETF	1,215,000		
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Total Veterans Educational Benefits	1,215,000	1,215,000
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The above appropriation includes pro-rata administration costs of the Department of Veterans Affairs and for the reimbursement to every State Institution of Higher Learning, College, University, or Junior College, in which benefits are given to veterans, their wives, widows, or children under the provision of Act No. 767, 1965 Regular Session.

33. Youth Services

(a) Youth Services Program	7,505,631
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(The above appropriation shall include a transfer to the Telephone Network Fund of \$33,090.)

SOURCE OF FUNDS:

(1) ASETF	6,500,000		
(2) Federal and Local Funds		1,005,631	
Total Youth Services	6,500,000	1,005,631	7,505,631

(To be expended in accordance with Act No. 816, 1973 Regular Session.)

In addition to the above appropriation there is appropriated \$1,083,543 conditional upon the condition of the Alabama Special Education Trust Fund and upon approval of the Governor.

34. State Employees Insurance	150,000
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SOURCE OF FUNDS:

(1) ASETF	150,000		
Total State Employees Insurance	150,000		150,000

35. State's Share of Employees Unemployment Compensation	1,500,000
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SOURCE OF FUNDS:

(1) ASETF	1,500,000
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Total State's Share of Employees Unemployment Compensation

1,500,000

1,500,000

Section 4.

B. NON - STATE EDUCATIONAL AGENCIES:

1. American Legion Auxiliary Scholarship Fund

(a) Support of other Educational Activities Program

10,000

SOURCE OF FUNDS:

(1) ASETF

10,000

Total American Legion Auxiliary Scholarship Fund

10,000

10,000

(To be expended under the provisions of Act No. 676, 1978 Regular Session.)

2. Birmingham Training Center for Brain Injured Children

(a) Non-Institutional Treatment and Care Program

30,000

SOURCE OF FUNDS:

(1) ASETF

30,000

Total Birmingham Training Center for Brain Injured Children

30,000

30,000

3. Opportunities Industrialization Centers

(a) Skills Enhancement and Employment Opportunities Program

175,000

SOURCE OF FUNDS:

(1) ASETF

175,000

Total Opportunities Industrialization Centers

175,000

175,000

4. Sylacauga Nurses Training School

(a) Support of Other Educational Activities Program

58,000

SOURCE OF FUNDS:

(1) ASETF 58,000

Total Sylacauga Nurses
Training School

58,000 58,000

5. Alabama Arts Hall of Fame 5,000

SOURCE OF FUNDS:

(1) ASETF 5,000

Total Alabama Arts Hall of
Fame

5,000 5,000

5. Environmental Quality Associa-
tion(a) Environmental Education
Program

175,000

SOURCE OF FUNDS:

(1) ASETF 175,000

Total Environmental Quality
Association

175,000 175,000

5. John Will Memorial Scholarship
Fund(a) Support of other educational
activities program

1,000

SOURCE OF FUNDS:

(1) ASETF 1,000

Total John Will Memorial
Scholarship Fund

1,000 1,000

Section 5

COLLEGES, UNIVERSITIES AND
SCHOOLSI. Board of Trustees of Univer-
sity of Alabama

A. The University

1. Operations & Maintenance:

(a) Instruction

24,017,025

(b) Libraries

2,129,722

(c) Academic Support (excl.
Libr.)

4,854,311

(d) Student Services	1,559,577		
(e) Institutional Support	6,086,358		
(f) Operation & Maintenance of Physical Plant	6,296,817		
(g) Scholarships and Fellowships	726,381		
(h) Debt Service	323,240		
(i) Transfers (Net)	974,343		
SOURCE OF FUNDS:			
(1) ASETF	31,723,728		
(2) Other Sources		15,244,046	
<hr/>			
Total Operations & Maintenance	31,723,728	15,244,046	46,967,774
<hr/>			
2. Research, Extension and Public Service:			
(a) Instruction		409,195	
(b) Research		231,896	
(c) Public Service		2,196,877	
(d) Debt Service		57,032	
SOURCE OF FUNDS:			
(1) ASETF	1,850,000		
(2) Other Sources		1,045,000	
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Total Research, Extension and Public Service	1,850,000	1,045,000	2,895,000
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3. Emergency Medical Services:			
Total Nursing Scholarships	18,000		18,000
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(a) Public Service			125,000
SOURCE OF FUNDS:			
(1) ASETF	125,000		
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Total Emergency Medical Services	125,000		125,000
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4. Center for Emotionally Disturbed Children:			
(a) Academic Support (excl. Libr.)			406,462
(b) Operations & Maintenance of Physical Plant			66,000
SOURCE OF FUNDS:			
(1) ASETF	472,462		
<hr/>			

Total Center for Emotional-ly Disturbed Children	472,462		472,462
<hr/>			
5. Nursing Scholarships:			
(a) Scholarships and Fel- lowships			18,000
SOURCE OF FUNDS:			
(1) ASETF	18,000		
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Total Nursing Scholarships	18,000		18,000
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6. School of Mines:			
(a) Research			504,281
(b) Public Service			539,719
(c) Scholarships and Fel- lowships			15,000
SOURCE OF FUNDS:			
(1) ASETF	1,059,000		
<hr/>			
Total School of Mines	1,059,000		1,059,000
<hr/>			
7. Family Practice Center:			
(a) Instruction			325,769
(b) Academic Support (excl. Libr.)			1,302,935
(c) Institutional Support			189,240
(d) Operation & Mainte- nance of Physical Plant			75,800
SOURCE OF FUNDS:			
(1) ASETF	741,645		
(2) Other Sources		1,152,099	
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Total Family Practice Cen- ter	741,645	1,152,099	1,893,744
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8. Alabama Museum of Natu- ral History:			
(a) Public Service			193,050
SOURCE OF FUNDS:			
(1) ASETF	150,000		
(2) Other Sources		43,050	
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Total Alabama Museum of Natural History	150,000	43,050	193,050
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9. College of Community Health Sciences Medical Education:			

(a) Instruction	1,088,812
(b) Public Service	476,167
(c) Libraries	157,393
(d) Academic Support (excl. Libr.)	709,413
(e) Institutional Support	238,533
(f) Operation & Maintenance of Physical Plant	128,000

SOURCE OF FUNDS:

(1) ASETF	2,154,986	
(2) Other Sources		643,332

Total College of Community
Health Sciences Medical
Education

2,154,986 643,332 2,798,318

10. Auxiliary Enterprises:

(a) Scholarships & Fellow- ships	44,964
(b) Auxiliary Enterprises	12,065,506
(c) Debt Service	1,773,000
(d) Transfers	1,093,000

SOURCE OF FUNDS:

(1) Other Sources	14,976,470
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Total Auxiliary Enterprises

14,976,470 14,976,470

11. Restricted Funds:

(a) Instruction	8,482,571
(b) Research	1,995,402
(c) Public Service	169,130
(d) Libraries	57,107
(e) Academic Support (excl. Libr.)	167,045
(f) Student Services	237,682
(g) Institutional Support	141,539
(h) Operation & Maintenance of Physical Plant	89,260
(i) Scholarships and Fel- lowships	1,144,648

SOURCE OF FUNDS:

(1) State Funds	4,264,932
(2) Federal Funds	6,634,882
(3) Other Sources	1,584,570

Total Restricted Funds

12,484,384 12,484,384

12. Vocational Teacher Training:			
(a) Instruction			340,057
SOURCE OF FUNDS:			
(1) ASETF	340,057		
Total Vocational Teacher Training	340,057		340,057
13. Cooperative University Upper Division Program:			
(a) Instruction			289,409
SOURCE OF FUNDS:			
(1) ASETF	193,189		
(2) Other Sources		96,220	
Total Cooperative University Upper Division Program	193,189	96,220	289,409
14. Rural Infant Stimulation Environment Program:			
(a) Public Service			125,000
SOURCE OF FUNDS:			
(1) ASETF	125,000		
Total Rural Infant Stimulation Environment Program	125,000		125,000
15. High Risk Nursery:			
(a) Public Service			100,000
SOURCE OF FUNDS:			
(1) ASETF	100,000		
Total High Risk Nursery	100,000		100,000
16. SAFE STATE PROGRAM:			
(a) Public Service			606,440
SOURCE OF FUNDS:			
(1) ASETF	160,489		
(2) Other Sources		445,951	
Total Safe State Program	160,489	445,951	606,440
TOTAL UNIVERSITY OF ALABAMA	39,213,556	46,130,552	85,344,108

B. University of Alabama in
Birmingham

1. School of Medicine:

(a) Instruction	14,999,551
(b) Research	18,994,651
(c) Public Service	5,979,069
(d) Libraries	299,593
(e) Academic Support (excl. Libr.)	1,685,103
(f) Student Services	429,260
(g) Institutional Support ...	3,269,476
(h) Operation & Mainte- nance of Physical Plant	4,349,395
(i) Scholarships and Fel- lowships	129,261
(j) Debt Service	799,605

SOURCE OF FUNDS:

(1) ASETF	16,199,000	
(2) State Funds		1,659,000
(3) Federal Funds		22,430,210
(4) Local Funds		625,000
(5) Other Sources		10,021,754

Total School of Medicine	16,199,000	34,735,964	50,934,964
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2. Family and Other Primary
Care Residency Program:

(a) Instruction	1,723,390
(b) Institutional Support	18,590
(c) Operation & Mainte- nance of Physical Plant	20,020

SOURCE OF FUNDS:

(1) ASETF	1,762,000
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Total Family and Other Pri-
mary Care Residence Pro-
grams

1,762,000	1,762,000
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The above appropriation
shall be expended for resi-
dency programs as follows:

Anniston	230,000
East End	230,000
Jefferson County	230,000
Montgomery	230,000
Montg.-Internal Medicine	220,000

Heflin	50,000
Selma	342,000
Gadsden	230,000

3. University College:

(a) Instruction	11,494,899
(b) Research	498,703
(c) Public Service	1,248,959
(d) Libraries	1,436,217
(e) Academic Support (excl. Libr.)	2,694,074
(f) Student Services	947,811
(g) Institutional Support ..	2,371,374
(h) Operation & Maintenance of Physical Plant	2,014,026
(i) Scholarships and Fellowships	183,451
(j) For Vocational Teacher Training	134,792

SOURCE OF FUNDS:

(1) ASETF	13,452,764	
(2) Federal Funds		1,048,545
(3) Other Sources		8,522,997

Total University College	13,452,764	9,571,542	23,024,306
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4. University Hospital:

(a) Hospital	96,567,918
(b) Debt Service	3,305,730

SOURCE OF FUNDS:

(1) ASETF	5,907,000	
(2) Sales and Services of Hospitals		94,266,648

Total University Hospital ...	5,907,000	94,266,648	100,173,648
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5. School of Optometry:

(a) Instruction	1,998,148
(b) Research	87,220
(c) Public Service	59,212
(d) Libraries	5,477
(e) Academic Support (excl. Libr.)	280,217
(f) Student Services	31,775
(g) Institutional Support	145,442
(h) Operation & Maintenance of Physical Plant	379,058
(i) Debt Service	24,637

SOURCE OF FUNDS:

(1) ASETF	2,021,500		
(2) Federal Funds		152,760	
(3) Other Sources		836,926	
Total School of Optometry...	2,021,500	989,686	3,011,186

6. School of Public and Allied Health:

(a) Instruction		1,901,284	
(b) Research		64,819	
(c) Public Service		246,898	
(d) Libraries		27,960	
(e) Academic Support (excl. Libr.)		487,310	
(f) Student Services		60,547	
(g) Institutional Support		232,199	
(h) Operation & Maintenance of Physical Plant		297,325	
(i) Scholarships and Fellowships		16,175	
(j) Debt Service		29,514	

SOURCE OF FUNDS:

(1) ASETF	1,838,473		
(2) Federal Funds		1,127,483	
(3) Other Sources		398,075	
Total School of Public and Allied Health	1,838,473	1,525,558	3,364,031

7. Regional Technical Institute:

(a) Instruction		1,389,374	
(b) Research		24,837	
(c) Public Service		95,932	
(d) Libraries		35,802	
(e) Academic Support (excl. Libr.)		210,994	
(f) Student Services		63,650	
(g) Institutional Support		102,583	
(h) Operation & Maintenance of Physical Plant		351,428	

SOURCE OF FUNDS:

(1) ASETF	1,697,245		
(2) Federal Funds		361,927	
(3) Other Sources		215,428	

Total Regional Technical Institute	1,697,245	577,355	2,274,600
<hr/>			
8. Joint Health Sciences:			
(a) Instruction			1,763,298
(b) Libraries			33,580
(c) Academic Support (excl. Libr.)			195,141
(d) Student Services			13,180
(e) Institutional Support			294,562
(f) Operation & Maintenance of Physical Plant			686,597
(g) Scholarships and Fellowships			104,720
SOURCE OF FUNDS:			
(1) ASETF	2,392,488		
(2) Federal Funds		184,590	
(3) Other Sources		514,000	
Total Joint Health Sciences	2,392,488	698,590	3,091,078
<hr/>			
9. Department of Pediatrics:			
(a) Instruction			318,000
SOURCE OF FUNDS:			
(1) ASETF	318,000		
Total Department of Pediatrics	318,000		318,000
<hr/>			
10. Center for Labor Education & Research:			
(a) Research			43,070
(b) Public Service			172,270
(c) Institutional Support			30,040
(d) Operation & Maintenance of Physical Plant			23,794
SOURCE OF FUNDS:			
(1) ASETF	269,174		
Total Center for Labor Education and Research	269,174		269,174
<hr/>			
11. Student Nurses Loans:			
(a) Scholarships & Fellowships			12,000

SOURCE OF FUNDS:

(1) ASETF	12,000	
Total Student Nurses Loans	12,000	12,000

12. Special Mental Health:

(a) Instruction	1,864,930	
(b) Research	400,817	
(c) Public Service	100,561	
(d) Institutional Support	104,100	
(e) Operation & Maintenance of Physical Plant	97,052	
(f) Transfers	626,734	

SOURCE OF FUNDS:

(1) Special Mental Health Fund	3,194,194	
Total Special Mental Health	3,194,194	3,194,194

13. Center for Developmental and Learning Disorders:

(a) Instruction	1,172,445	
(b) Research	20,937	
(c) Public Service	900,271	

SOURCE OF FUNDS:

(1) Special Mental Health Fund	539,863	
(2) Federal Funds	1,103,190	
(3) Other Sources	450,600	
Total Center for Developmental and Learning Disorders	2,093,653	2,093,653

14. School of Dentistry:

(a) Instruction	5,827,831	
(b) Research	4,083,759	
(c) Public Service	593,497	
(d) Libraries	108,494	
(e) Academic Support (excl. Libr.)	606,254	
(f) Student Services	134,007	
(g) Institutional Support	848,755	
(h) Operation & Maintenance of Physical Plant	2,494,944	
(i) Debt Service	91,442	

SOURCE OF FUNDS:

(1) ASETF	6,938,000		
(2) Federal Funds		4,274,530	
(3) Other Sources		3,576,453	
Total School of Dentistry ..	6,938,000	7,850,983	14,788,983

15. Nursing Scholarships:

(a) Scholarships & Fellowships			88,400
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SOURCE OF FUNDS:

(1) ASETF	88,400		
Total Nursing Scholarships	88,400		88,400

16. System Medical Education Program:

(a) Instruction			503,500
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SOURCE OF FUNDS:

(1) ASETF	503,500		
Total System Medical Education Program	503,500		503,500

17. School of Nursing:

(a) Instruction			2,774,639
(b) Research			53,189
(c) Public Service			47,055
(d) Libraries			36,135
(e) Academic Support (excl. Libr.)			421,934
(f) Student Services			142,212
(g) Institutional Support ..			263,244
(h) Operation & Maintenance of Physical Plant			381,580
(i) Scholarships & Fellowships			21,028

SOURCE OF FUNDS:

(1) ASETF	2,546,102		
(2) Federal Funds		1,031,130	
(3) Other Sources		563,984	
Total School of Nursing	2,546,102	1,595,114	4,141,216

18. Health — Related Research and Public Service:

(a) Instruction			929,651
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(b) Research			673,629
(c) Public Service			1,055,307
(d) Academic Support (excl. Libr.)			25,014
(e) Institutional Support			136,068
(f) Operation & Maintenance of Physical Plant			169,985
SOURCE OF FUNDS:			
(1) ASETF	2,889,654		
(2) Other Sources		100,000	
<hr/>			
Total Health -- Related Research and Public Service	2,889,654	100,000	2,989,654
<hr/>			
19. Emergency Medical Training:			
(a) Instruction			125,000
(b) Public Service			40,000
SOURCE OF FUNDS:			
(1) ASETF	165,000		
<hr/>			
Total Emergency Medical Training	165,000		165,000
<hr/>			
20. Urban Research and Public Service:			
(a) Research			46,800
(b) Public Service			97,870
(c) Libraries			17,020
(d) Operation & Maintenance of Physical Plant			8,522
SOURCE OF FUNDS:			
(1) ASETF	170,212		
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Total Urban Research & Public Service	170,212		170,212
<hr/>			
21. Hypertension Research:			
(a) Research			360,000
(b) Institutional Support			19,040
(c) Operation & Maintenance of Physical Plant			20,960
SOURCE OF FUNDS:			
(1) ASETF	400,000		
<hr/>			
Total Hypertension Research	400,000		400,000
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22. Multipurpose Arthritis Center:			
(a) Research			360,000
(b) Institutional Support			19,040
(c) Operation & Maintenance of Physical Plant			20,960
SOURCE OF FUNDS:			
(1) ASETF	400,000		
<hr/>			
Total Multipurpose Arthritis Center	400,000		400,000
<hr/>			
23. Medical Genetics Program:			
(a) Instruction			200,000
SOURCE OF FUNDS:			
(1) ASETF	200,000		
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Total Medical Genetics Program	200,000		200,000
<hr/>			
24. Auxiliary Enterprises:			
(a) Auxiliary Enterprises.....			5,964,210
SOURCE OF FUNDS:			
(1) Other Sources	5,964,210		
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Total Auxiliary Enterprises	5,964,210		5,964,210
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TOTAL UNIVERSITY OF ALABAMA IN BIRMINGHAM			
.....	60,170,512	163,163,497	223,334,009
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<hr/>			
C. University of Alabama in Huntsville:			
1. Operation and Maintenance:			
(a) Instruction			4,304,569
(b) Research			1,029,590
(c) Public Service			332,600
(d) Libraries			596,709
(e) Academic Support (excl. Libr.)			263,086
(f) Student Services			574,486
(g) Institutional Support.....			980,907
(h) Operation and Maintenance of Physical Plant			1,105,283
(i) Scholarships and Fellowships			730,126

(j) Transfers			15,414
SOURCE OF FUNDS:			
(1) ASETF	5,791,184		
(2) Federal Funds		1,536,590	
(3) Other Sources		2,604,996	
Total Operation & Maintenance	5,791,184	4,141,586	9,932,770
<hr/>			
2. School of Nursing Scholarships:			
(a) Scholarships and Fellowships			18,000
SOURCE OF FUNDS:			
(1) ASETF	18,000		
Total School of Nursing Scholarships	18,000		18,000
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To be expended in accordance with Act 2290, 1971 Regular Session.)			
3. School of Primary Medical Care:			
(a) Instruction			1,592,854
(b) Public Service			15,469
(c) Libraries			70,640
(d) Academic Support (excl. Libr.)			535,729
(e) Student Services			60,466
(f) Institutional Support			335,938
(g) Operation and Maintenance of Physical Plant			334,890
SOURCE OF FUNDS:			
(1) ASETF	2,642,511		
(2) Federal Funds		223,475	
(3) Other Sources		80,000	
Total School of Primary Medical Care	2,642,511	303,475	2,945,986
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(4) Johnson Environmental & Energy Center:			
(a) Research			742,031
(b) Public Service			201,893
(c) Institutional Support			33,891
(d) Operation and Maintenance of Physical Plant			33,407

SOURCE OF FUNDS:			
(1) ASETF	269,191		
(2) State Funds		80,890	
(3) Federal Funds		647,120	
(4) Other Sources		14,021	
<hr/>			
Total Johnson Environmental & Energy Center	269,191	742,031	1,011,222
<hr/>			
5. Ambulatory Care Center:			
(a) Instruction			692,294
(b) Academic Support (excl. Libr.)			613,982
(c) Institutional Support			85,192
(d) Operation and Maintenance of Physical Plant			80,219
SOURCE OF FUNDS:			
(1) ASETF	646,403		
(2) Federal Funds		240,281	
(3) Other Sources		585,003	
<hr/>			
Total Ambulatory Care Center	646,403	825,284	1,471,687
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6. School of Nursing:			
(a) Instruction			598,707
(b) Academic Support (excl. Libr.)			202,692
(c) Institutional Support			134,528
(d) Operation and Maintenance of Physical Plant			132,605
SOURCE OF FUNDS:			
(1) ASETF	792,027		
(2) Other Sources		276,505	
<hr/>			
Total School of Nursing	792,027	276,505	1,068,532
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7. Paramedic Training:			
(a) Public Service			93,750
(b) Institutional Support			15,738
(c) Operation and Maintenance of Physical Plant			15,512
SOURCE OF FUNDS:			
(1) ASETF	125,000		
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Total Paramedic Training	125,000		125,000
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8. Alabama Solar Energy Center:

(a) Public Service	188,243
(b) Institutional Support ..	39,813
(c) Operation and Maintenance of Physical Plant	39,601

SOURCE OF FUNDS:

(1) ASETF	267,657
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Total Solar Energy Center...	267,657	267,657
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TOTAL UNIVERSITY OF ALABAMA IN HUNTSVILLE

10,551,973	6,288,881	16,840,854
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II. Board of Trustees of Alabama bama A & M Univ.

A. Alabama A & M University

1. Operations and Maintenance

(a) Instruction	5,772,727
(b) Research	350,470
(c) Public Service	1,680,425
(d) Libraries	625,400
(e) Academic Support (excl. Libr.)	671,455
(f) Student Services	588,550
(g) Institutional Support ..	1,840,000
(h) Operation and Maintenance of Physical Plant	2,291,814
(i) Scholarships and Fellowships	150,000
(j) Equipment Purchases ..	241,814
(k) Automotive Equipment ..	65,000
(l) Debt Service	451,000

SOURCE OF FUNDS:

(1) ASETF	8,100,000
(2) State Funds	545,000
(3) Federal Funds	5,714,133
(4) Other Sources	289,522
(5) Auxiliary Enterprises....	80,000

Total Operation & Maintenance	8,100,000	6,628,655	14,728,655
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2. Vocational Teacher Training:

(a) Instruction 250,000

SOURCE OF FUNDS:

(1) ASETF 250,000

Total Vocational Teacher
Training

250,000

250,000

3. Auxiliary Enterprises:

(a) Auxiliary Enterprises ... 3,061,000

SOURCE OF FUNDS:

(1) Other Sources 3,061,000

Total Auxiliary Enterprises

3,061,000

3,061,000

TOTAL ALABAMA A & M
UNIVERSITY

8,350,000

9,689,655

18,039,655

III . Board of Trustees of Alabama
State University

A. Alabama State University

1. Operation and Maintenance:

(a) Instruction 5,336,765

(b) Libraries 625,150

(c) Academic Support (excl.
Libr.) 320,860

(d) Student Services 985,070

(e) Institutional Support ... 1,336,860

(f) Operation and Maintenance of Physical Plant
..... 1,527,210(g) Scholarships and Fellowships
..... 4,376,710

(h) Research 28,800

(i) Public Service 58,300

(j) Debt Service 608,970

SOURCE OF FUNDS:

(1) ASETF 7,368,175

(2) Federal Funds 5,062,750

(3) Other Sources 2,773,770

Total Operation and Maintenance

7,368,175

7,836,520

15,204,695

2. Auxiliary Enterprises

3,013,160

SOURCE OF FUNDS:

(1) Other Sources 3,013,160

Total Auxiliary Enterprises	3,013,160	3,013,160
Total Alabama State University	7,368,175	10,849,680
	18,217,855	

IV. Board of Trustees of Auburn University

A. Auburn University

1. Operation and Maintenance:

(a) Instruction	31,775,551
(b) Research	5,363,686
(c) Public Service	3,677,233
(d) Libraries	2,516,582
(e) Academic Support (Excl. Libr.)	3,696,200
(f) Student Services	3,278,866
(g) Institutional Support	4,889,149
(h) Operation and Maintenance of Physical Plant	9,383,536
(i) Scholarships and Fellowships	870,000
(j) Transfers	2,345,000

SOURCE OF FUNDS:

(1) ASETF	34,962,440	
(2) Federal Funds		152,350
(3) Other Sources		32,660,733
(4) State Funds		20,280

Total Operation and Maintenance	34,962,440	32,833,363	67,795,803
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2. School of Nursing:

(a) Instruction	394,980
(b) Academic Support (excl. Libr.)	105,020

SOURCE OF FUNDS:

(1) ASETF	500,000
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Total School of Nursing	500,000	500,000
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3. Educational Television:

(a) Instruction	352,068
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SOURCE OF FUNDS:

(1) ASETF	352,068
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Total Educational Television	352,068	352,068
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4. Center for Vocational and Adult Education		
(a) Instruction		500,000
SOURCE OF FUNDS:		
(1) ASETF	500,000	
Total Center for Vocational and Adult Education	500,000	500,000
5. Clinical Psychology:		
(a) Instruction		110,000
SOURCE OF FUNDS:		
(1) ASETF	110,000	
Total Clinical Psychology ...	110,000	110,000
7. Engineering Experiment Station:		
(a) Research		812,232
SOURCE OF FUNDS:		
(1) ASETF	812,232	
Total Engineering Experiment Station	812,232	812,232
9. Cooperative Extension Service — Retirement:		
(a) Public Service		1,022,840
SOURCE OF FUNDS:		
(1) ASETF	1,022,840	
Total Cooperative Extension Service — Retirement	1,022,840	1,022,840

The appropriation herein made for the Extension Service shall be expended by the direction of the Board of Trustees of Auburn University through its Extension Service and shall be done in such manner as to make available the maximum amounts of aid from the Federal government.

10. Public Service, Research and Extension:			
(a) Public Service			356,841
SOURCE OF FUNDS:			
(1) ASETF	346,841		
(2) Other Sources		10,000	
<hr/>			
Total Public Service, Research and Extension	346,841	10,000	356,841
<hr/>			
11. Energy Research:			
(a) Research			250,000
SOURCE OF FUNDS:			
(1) ASETF	250,000		
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Total Energy Research	250,000		250,000
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12. Auxiliary Enterprises:			
(a) Auxiliary Enterprises ..			14,500,000
(b) Debt Service			805,910
SOURCE OF FUNDS:			
(1) Other Sources		15,305,910	
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Total Auxiliary Enterprises		15,305,910	15,305,910
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TOTAL AUBURN UNIVERSITY	38,856,421	48,149,273	87,005,694
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B. Agricultural Experiment Station:			
(a) Research			14,713,704
(b) Academic Support (excl. Libr.)			690,000
(c) Scholarships and Fellowships			5,000
(d) Operation and Maintenance of Physical Plant			310,000
SOURCE OF FUNDS:			
(1) ASETF	7,224,277		
(2) Federal Funds		4,819,427	
(3) Local Funds		50,000	
(4) Other Sources		3,610,000	
(5) State Funds		15,000	
<hr/>			
Total Agricultural Experiment Station	7,224,277	8,494,427	15,718,704
<hr/>			

C. Cooperative Extension Service:

(a) Public Service	16,079,736
(b) Academic Support (excl. Libr.)	425,340

SOURCE OF FUNDS:

(1) ASETF	7,893,538	
(2) Federal Funds		6,786,092
(3) Local Funds		1,715,446
(4) Other Sources		110,000

Total Cooperative Extension Service

7,893,538	8,611,538	16,505,076
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D. Auburn University at Montgomery:

1. Operations and Maintenance:

(a) Instruction	4,576,113
(b) Research	87,405
(c) Public Service	2,040,000
(d) Libraries	328,965
(e) Academic Support (excl. Libr.)	245,453
(f) Student Services	345,521
(g) Institutional Support	515,122
(h) Operation and Maintenance of Physical Plant	1,196,296
(i) Scholarships and Fellowships	293,295
(j) Debt Service	83,850

SOURCE OF FUNDS:

(1) ASETF	5,281,493	
(2) Federal Funds		1,524,191
(3) State Funds		515,869
(4) Other Sources		2,390,467

Total Operation and Maintenance

5,281,493	4,430,527	9,712,020
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2. Montgomery Area Community Health Science Institute:

(a) Public Service	127,769
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SOURCE OF FUNDS:

(1) ASETF	127,769
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Total Montgomery Area

Community Health Science Institute	127,769		127,769
<hr/>			
3. Public Service, Research and Extension (Center for Government & Public Affairs):			
(a) Public Service			170,120
SOURCE OF FUNDS:			
(1) ASETF	150,000		
(2) Other Sources		20,120	
<hr/>			
Total Public Service, Research and Extension (Center for Government and Public Affairs)	150,000	20,120	170,120
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4. School of Nursing:			
(a) Academic Support			60,408
(b) Instruction			189,592
SOURCE OF FUNDS:			
(1) ASETF	250,000		
<hr/>			
Total School of Nursing	250,000		250,000
<hr/>			
5. Auxiliary Enterprises:			
(a) Auxiliary Enterprises ...			1,110,000
SOURCE OF FUNDS:			
(1) Other Sources		1,110,000	
<hr/>			
Total Auxiliary Enterprises		1,110,000	1,110,000
<hr/>			
Total Auburn at Montgomery	5,809,262	5,560,647	11,369,909
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V. Board of Trustees of Jacksonville State University:			
A. Jacksonville State University			
1. Operations and Maintenance			
(a) Instruction			8,498,000
(b) Public Service			20,000
(c) Libraries			929,000
(d) Academic Support (excl. Libr.)			327,000
(e) Student Services			770,000
(f) Institutional Support ...			276,000

(g) Operation and Maintenance of Physical Plant			2,512,378
(h) Scholarships and Fellowships			50,000
(i) Debt Service			514,375
SOURCE OF FUNDS:			
(1) ASETF	10,372,378		
(2) State Funds		300,000	
(3) Other Sources		3,224,375	
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Total Operations and Maintenance	10,372,378	3,524,375	13,896,753
<hr/>			
2. Gadsden Program:			
(a) Instruction			478,122
(b) Public Service			3,500
(c) Libraries			20,000
(d) Academic Support (excl. Libr.)			19,000
(e) Student Services			19,000
(f) Operation and Maintenance of Physical Plant			55,000
SOURCE OF FUNDS:			
(1) ASETF	484,622		
(2) Other Sources		110,000	
<hr/>			
Total Cooperative University Upper Division (formerly Gadsden Prog.)	484,622	110,000	594,622
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3. Nursing Scholarships:			
(a) Scholarships and Fellowships			18,000
SOURCE OF FUNDS:			
(1) ASETF	18,000		
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Total Nursing Scholarships	18,000		18,000
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(To be expended in accordance with Act No. 2288, 1971 Regular Session.)			
4. United Cerebral Palsy Development Center for East Central Alabama			
(a) Public Service			100,000
SOURCE OF FUNDS:			
(1) ASETF	100,000		
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Total United Cerebral Palsy Development Center for East Central Alabama	100,000	100,000
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5. For Vocational Teacher Training		
(a) Instruction		100,000

SOURCE OF FUNDS:

(1) ASETF	100,000	
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Total Vocational Teacher Training	100,000	100,000
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6. Auxiliary Enterprises:		
(a) Auxiliary Enterprises.....		1,490,000

SOURCE OF FUNDS:

(1) Other Sources	1,490,000	
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Total Auxiliary Enterprises	1,490,000	1,490,000
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Total Jacksonville State University	11,075,000	5,124,375	16,199,375
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VI. Board of Trustees of Livingston State University:

A. Livingston University:

1. Operation and Maintenance:

(a) Instruction	1,632,143
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(b) Libraries	173,902
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(c) Academic Support (excl. Libr.)	196,472
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(d) Student Services	224,790
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(e) Institutional Support	630,208
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(f) Operation and Maintenance of Physical Plant	891,821
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(g) Scholarships and Fellowships	25,646
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(h) For Federal Programs.....	230,000
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SOURCE OF FUNDS:

(1) ASETF	3,211,782	
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(2) Federal Funds	230,000	
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(3) Local Funds	563,200	
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Total Operation and Maintenance	3,211,782	793,200	4,004,982
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2. Nursing Scholarships:		
(a) Scholarships and Fellowships		18,000
SOURCE OF FUNDS:		
(1) ASETF	18,000	
Total Nursing Scholarships	18,000	18,000
3. Auxiliary Enterprises:		
(a) Auxiliary Enterprises		1,120,400
SOURCE OF FUNDS:		
(1) Other Sources	1,120,400	
Total Auxiliary Enterprises	1,120,400	1,120,400
Total Livingston University	3,229,782	5,143,382

VII. Board of Trustees of University of Montevallo:

A. University of Montevallo:			
1. Operation and Maintenance:			
(a) Instruction		3,359,177	
(b) Research		20,000	
(c) Libraries		245,738	
(d) Academic Support (excl. Libr.)		372,312	
(e) Student Services		459,796	
(f) Institutional Support		807,390	
(g) Operation and Maintenance of Physical Plant		1,744,959	
(h) Scholarships and Fellowships		25,000	
SOURCE OF FUNDS:			
(1) ASETF	4,975,198		
(2) State Funds		45,000	
(3) Federal Funds		696,451	
(4) Other Sources		1,317,723	
Total Operations and Maintenance	4,975,198	2,059,174	7,034,372
2. School for Aphasic Children:			
(a) Instruction		266,574	
SOURCE OF FUNDS:			
(1) ASETF	199,464		
(2) Federal Funds		2,900	

(3) Other Sources		64,210	
<hr/>			
Total School for Aphasic Children	199,464	67,110	266,574
<hr/>			
3. Highway Safety Program:			
(a) Instruction			137,967
(b) Research			168,803
SOURCE OF FUNDS:			
(1) ASETF	125,714		
(2) Federal Funds		168,803	
(3) Other Sources		12,253	
<hr/>			
Total Highway Safety Program	125,714	181,056	306,770
<hr/>			
4. Communication Center:			
(a) Instruction			19,178
(b) Public Service			65,000
SOURCE OF FUNDS:			
(1) ASETF	18,178		
(2) State Funds		65,000	
(3) Other Sources		1,000	
<hr/>			
Total Communication Center	18,178	66,000	84,178
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5. Vocational Home Economics:			
(a) Instruction			183,998
(b) Public Service			235,618
SOURCE OF FUNDS:			
(1) ASETF	50,000		
(2) State Funds		235,618	
(3) Other Sources		133,998	
<hr/>			
Total Vocational Home Economics	50,000	369,616	419,616
<hr/>			
6. Auxiliary Enterprises:			
(a) Auxiliary Enterprises			2,448,000
SOURCE OF FUNDS:			
(1) Other Sources		2,448,000	
<hr/>			
Total Auxiliary Enterprises		2,448,000	2,448,000
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TOTAL UNIVERSITY OF MONTEVALLO	5,368,554	5,190,956	10,559,510
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VIII. Board of Trustees of University of North Alabama:

A. University of North Alabama:

1. Operations and Maintenance:

(a) Instruction	5,050,520
(b) Research	106,350
(c) Public Service	42,020
(d) Libraries	494,715
(e) Academic Support (excl. Libr.)	604,500
(f) Student Services	867,720
(g) Institutional Support ..	1,131,100
(h) Operation and Maintenance of Physical Plant ..	1,695,810
(i) Scholarships and Fellowships	92,145
(j) Debt Service	164,940

SOURCE OF FUNDS:

(1) ASETF	7,000,000		
(2) Federal Funds		243,080	
(3) Local Funds		85,000	
(4) Other Sources		2,921,740	
Total Operation and Maintenance	7,000,000	3,249,820	10,249,820

2. Auxiliary Enterprises:

(a) Auxiliary Enterprises ..	2,801,010
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SOURCE OF FUNDS:

(1) Other Sources	2,801,010	
Total Auxiliary Enterprises	2,801,010	2,801,010

3. Nursing School Scholarships:

(a) Scholarships and Fellowships	18,000
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SOURCE OF FUNDS:

(1) ASETF	18,000		
Total Nursing School Scholarships	18,000		18,000

(To be expended in accordance with Act No. 2304, 1971 Regular Session.)

TOTAL UNIVERSITY OF NORTH ALABAMA	7,018,000	6,050,830	13,068,830
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IX. Board of Trustees of University of South Alabama:

A. University of South Alabama:

1. Operations and Maintenance:

(a) Instruction	8,023,207
(b) Research	99,151
(c) Public Service	220,774
(d) Libraries	828,038
(e) Academic Support (excl. Libr.)	992,897
(f) Student Services	1,604,680
(g) Institutional Support ..	1,474,511
(h) Operations and Maintenance of Physical Plant ..	2,700,921
(i) Scholarships and Fellowships	267,800
(j) Debt Service	1,219,170
(k) Transfers	26,000

SOURCE OF FUNDS:

(1) ASETF	9,852,713
(2) State Funds	62,659
(3) Federal Funds	276,473
(4) Other Sources	7,265,304

Total Operations and Maintenance	9,852,713	7,604,436	17,457,149
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2. Statewide Medical Education:

(a) Instruction	163,407
(b) Institutional Support ..	11,964
(c) Operation & Maintenance of Physical Plant ..	12,453

SOURCE OF FUNDS:

(1) ASETF	187,824
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Total Statewide Medical Education	187,824	187,824
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3. Ambulatory Care:

(a) Academic Support (excl. Libr.)	86,394
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(b) Institutional Support	6,325
(c) Operation & Maintenance of Physical Plant	6,585

SOURCE OF FUNDS:

(1) ASETF	99,304	
Total Ambulatory Care	99,304	99,304

4. Family Practice Residency Program:

(a) Instruction	501,990
(b) Institutional Support	36,755
(c) Operations and Maintenance of Physical Plant	38,255

SOURCE OF FUNDS:

(1) ASETF	577,000	
Total Family Practice Residency Program	577,000	577,000

The above appropriation shall be expended for Rural Family Practice Training Programs not limited to but including Family Practice Residency in Baldwin County, Family Practice Training Center in Pike County and Family Practice Residency Program in Dothan.

5. College of Medicine:

(a) Instruction	6,670,295
(b) Research	2,047,607
(c) Public Service	439,499
(d) Libraries	497,033
(e) Academic Support (excl. Libr.)	466,756
(f) Student Services	123,266
(g) Institutional Support	526,119
(h) Operations and Maintenance of Physical Plant	547,594
(i) Scholarships and Fellowships	12,000
(j) Transfers	2,234,446

SOURCE OF FUNDS:

(1) ASETF	8,259,329	
(2) Federal Funds		1,566,259

(3) Local Funds		132,094	
(4) Other Sources		3,606,933	
Total College of Medicine ...	8,259,329	5,305,286	13,564,615
<hr/>			
6. Medical Center Hospital:			
(a) Hospitals			28,193,425
SOURCE OF FUNDS:			
(1) ASETF	1,677,427		
(2) Sales and Services of Hospitals		26,515,998	
Total Medical Center Hos- pital	1,677,427	26,515,998	28,193,425
<hr/>			
7. Newborn Growth and De- velopment Program:			
(a) Instruction			68,814
(b) Institutional Support			5,038
(c) Operation and Mainte- nance of Physical Plant			5,245
SOURCE OF FUNDS:			
(1) ASETF	79,097		
Total Newborn Growth and Development Program	79,097		79,097
<hr/>			
8. Human and Clinical Nutri- tion Program:			
(a) Instruction			21,750
(b) Institutional Support			1,592
(c) Operation and Mainte- nance of Physical Plant			1,658
SOURCE OF FUNDS:			
(1) ASETF	25,000		
Total Human and Clinical Nutrition Program	25,000		25,000
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9. Division of Allied Health:			
(a) Instruction			513,451
(b) Libraries			10,008
(c) Academic Support (excl. Libr.)			79,022
(d) Student Services			53,483
(e) Institutional Support			23,457

(f) Operation & Maintenance of Physical Plant 16,889

SOURCE OF FUNDS:

(1) ASETF 586,432

(2) Other Sources 109,878

Total Division of Allied Health 586,432 109,878 696,310

10. School of Nursing:

(a) Instruction 573,526

(b) Libraries 26,000

(c) Academic Support (excl. Libr.) 12,500

(d) Student Services 52,512

(e) Institutional Support 15,004

(f) Operation & Maintenance of Physical Plant 7,502

SOURCE OF FUNDS:

(1) ASETF 468,864

(2) Federal Funds 35,000

(3) Other Sources 183,180

Total School of Nursing 468,864 218,180 687,044

11. Nursing Scholarships:

(a) Scholarships and Fellowships 24,200

SOURCE OF FUNDS:

(1) ASETF 18,000

(2) Other Sources 6,200

Total Nursing Scholarships 18,000 6,200 24,200

(To be expended in accordance with Act No. 2304, 1971 Regular Session.)

12. Research, Public Service and Extension:

(a) Research 38,513

(b) Public Service 48,261

(c) Institutional Support 7,312

(d) Operation & Maintenance of Physical Plant 7,312

SOURCE OF FUNDS:

(1) ASETF 91,398

(2) Other Sources 10,000

Total Research, Public Service and Extension			
	91,398	10,000	101,398
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13. Reproductive Health Sciences Center:			
(a) Instruction			43,500
(b) Institutional Support ..			3,185
(c) Operation & Maintenance of Physical Plant			3,315
SOURCE OF FUNDS:			
(1) ASETF	50,000		
<hr/>			
Total Reproductive Health Sciences Center	50,000		50,000
<hr/>			
14. Paramedic Training Program:			
(a) Instruction			97,609
(b) Institutional Support ..			8,816
(c) Operation & Maintenance of Physical Plant			18,575
SOURCE OF FUNDS:			
(1) ASETF	125,000		
<hr/>			
Total Paramedic Training Program	125,000		125,000
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15. Basic Medical Sciences:			
(a) Instruction			174,000
(b) Institutional Support ..			12,740
(c) Operation & Maintenance of Physical Plant			13,260
SOURCE OF FUNDS:			
(1) ASETF	200,000		
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Total Basic Medical Sciences	200,000		200,000
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16. Birth Defect—Genetic Center:			
(a) Instruction			174,000
(b) Institutional Support ..			12,740
(c) Operation & Maintenance of Physical Plant			13,260
SOURCE OF FUNDS:			
(1) ASETF	200,000		
<hr/>			

Total Birth Defect — Gene- tic Center			
	200,000		200,000
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17. Auxiliary Enterprises:			
(a) Auxiliary Enterprises ..			3,937,352
SOURCE OF FUNDS:			
(1) Other Sources	3,937,352		
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Total Auxiliary Enterprises	3,937,352	3,937,352	
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TOTAL UNIVERSITY OF SOUTH ALABAMA	22,497,388	43,707,330	66,204,718
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X. Board of Trustees of Troy State University:			
A. Troy State University:			
1. Operations and Maintenance:			
(a) Instruction			4,269,872
(b) Research			35,000
(c) Public Service			425,000
(d) Libraries			500,000
(e) Academic Support (excl. Libr.)			170,000
(f) Student Services			1,000,000
(g) Institutional Support			1,300,000
(h) Operation & Maintenance of Physical Plant			1,650,000
(i) Scholarships and Fel- lowships			479,000
(j) Debt Services			245,000
(k) Teacher Training			100,000
SOURCE OF FUNDS:			
(1) ASETF	6,508,599		
(2) State Funds		100,000	
(3) Federal Funds		500,000	
(4) Other Sources		3,065,273	
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Total Operations and Main- tenance	6,508,599	3,665,273	10,173,872
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2. Operation and Maintenance at Ft. Rucker/Dothan:			
(a) Instruction			1,081,350
(b) Libraries			120,000
(c) Academic Support (excl. Libr.)			116,150

(d) Student Services		169,000	
(e) Institutional Support		263,300	
(f) Operation and Maintenance of Physical Plant		145,200	
(g) Scholarships and Fellowships		10,000	
(h) Debt Service		80,000	

SOURCE OF FUNDS:

(1) ASETF	870,000		
(2) Federal Funds		15,000	
(3) Other Sources		1,100,000	

Total Operations and Maintenance at Ft. Rucker/Dothan

870,000 1,115,000 1,985,000

3. Operations and Maintenance
— TSU in Montgomery:

(a) Instruction		1,311,300	
(b) Public Service		66,500	
(c) Libraries		15,000	
(d) Academic Support (excl. Libr.)		145,000	
(e) Student Services		235,000	
(f) Institutional Support		490,000	
(g) Scholarships and Fellowships		5,000	

SOURCE OF FUNDS:

(1) ASETF	222,800		
(2) Other Sources		2,045,000	

Total Operations and Maintenance—TSU in Montgomery

222,800 2,045,000 2,267,800

4. Nursing Scholarships:

(a) Scholarships and Fellowships		36,000	
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SOURCE OF FUNDS:

(1) ASETF	36,000		
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Total Nursing Scholarships

36,000 36,000

(To be expended in accordance with Act No. 2292, 1971 Regular Session.)

5. Bay Minette Branch Campus:

(a) Instruction	343,300
(b) Libraries	61,100
(c) Academic Support (Excl. Libr.)	25,000
(d) Student Services	25,000
(e) Institutional Support	97,600

SOURCE OF FUNDS:

(1) ASETF	50,000	
(2) Other Sources		502,000

Total Bay Minette Branch Campus	50,000	502,000	552,000
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6. Baccalaureate Degree — Nursing in Montgomery:

(a) Instruction	251,000
(b) Libraries	38,564

SOURCE OF FUNDS:

(1) ASETF	250,000	
(2) Other Sources		39,564

Total Baccalaureate Degree — Nursing in Montgomery	250,000	39,564	289,564
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7. Auxiliary Enterprises:

(a) Main Campus	3,397,210
(b) Ft. Rucker/Dothan	252,000
(c) Montgomery	316,000
(d) Bay Minette	95,000

SOURCE OF FUNDS:

(1) Other Sources	4,060,210
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Total Auxiliary Enterprises	4,060,210	4,060,210
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TOTAL TROY STATE UNIVERSITY

7,937,399	11,427,047	19,364,446
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XI. Board of Trustees for Alabama Institute for Deaf and Blind:

A. Alabama Institute for Deaf and Blind:

1. Operation and Maintenance:

(a) Instruction	2,340,297
(b) Libraries	80,000
(c) Student Services	490,000

(d) Academic Support (Excl. Libr.)			290,000
(e) Institutional Support			176,000
(f) Operation and Maintenance of Physical Plant			1,551,075
(g) Scholarships and Fellowships			1,500
(h) Infirmary Speech and Hearing			200,000
(i) Auxiliary Enterprises			100,000
SOURCE OF FUNDS:			
(1) ASETF	3,696,500		
(2) State Funds		7,500	
(3) Federal Funds		594,312	
(4) Other Sources		930,650	

Total Alabama Institute for Deaf and Blind—Operation and Maintenance	3,696,500	1,532,372	5,228,872
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B. Department of Adult Blind and Deaf:

1. Special Technical Facility:

(a) Instruction			1,173,349
(b) Libraries			104,939
(c) Academic Support (Excl. Libr.)			26,000
(d) Student Services			842,871
(e) Institutional Support			258,962
(f) Operation and Maintenance of Physical Plant			356,854
(g) Auxiliary Enterprises			545,897
SOURCE OF FUNDS:			
(1) ASETF	964,635		
(2) Federal Funds		1,957,205	
(3) Other Sources		387,032	

Total Special Technical Facility	964,635	2,344,237	3,308,872
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2. Industries for the Blind and Deaf:

(a) Auxiliary Enterprises			6,494,764
SOURCE OF FUNDS:			
(1) ASETF	553,865		
(2) Other Sources		5,940,899	

Total Industries for the Blind and Deaf	553,865	5,940,899	6,494,764
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GRAND TOTAL ALABAMA INSTITUTE FOR DEAF AND BLIND	5,215,000	9,817,508	15,032,508
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Of the appropriation above each certificated employee shall be allowed two hundred forty-seven dollars and twenty cents (\$247.20) to provide hospital-medical insurance assistance.

Of the appropriation above three hundred dollars (\$300) per teacher unit for grades K-12 is allocated for all teachers employed (except ESEA Title I and Title III teachers and ESAA teachers) and shall be allotted for the purchase of instructional supplies, materials, and equipment, excluding furniture and fixtures.

XII. State Board of Education;

A. Athens State College:

1. Operation and Maintenance:

(a) Instruction	1,064,642
(b) Institutional Support ..	327,925
(c) Academic Support	182,908
(d) Student Services	217,071
(e) Operation and Maintenance of Physical Plant	478,246
(f) Public Service	534,674
(g) Libraries	89,455

SOURCE OF FUNDS:

(1) ASETF	1,500,000
(2) Federal Funds	564,102
(3) Other Sources	830,819

Total Operations and Maintenance	1,500,000	1,394,921	2,894,921
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2. Auxiliary Enterprises			
(a) Auxiliary Enterprises.....			509,777
SOURCE OF FUNDS:			
(1) Other Sources		509,777	
Total Auxiliary Enterprises		509,777	509,777
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TOTAL ATHENS STATE			
COLLEGE	1,500,000	1,904,698	3,404,698

XIII. A. East Alabama Sickle Cell Association, Inc., for the purpose of education and counseling 30,000

Section 6. For Funding of a Paramedic Training Program with the proposed instruction to be conducted at the following institutions.

1. George C. Wallace Community College at Dothan:
For Operations and Maintenance 125,000
2. Gadsden State Junior College:
For Operations and Maintenance 125,000

Section 7. Other Educational Appropriations:

1. George C. Wallace Community College at Dothan:
For nursing programs 200,000
2. Partlow School — For constructing and equipping swimming pools 200,000
3. Theodore A. Lawson State Community College 168,000
4. Nursing School at the Wallace Community College at Cullman 125,000

Section 8. Governor's Education Program.

To State Department of Education — Board of Education with Governor's approval.
For Basic Learning Skills Program, Instructional Improvement Teams, Instructional Improve-

ment Support, Emergency Construction, and or the addition of new Kindergarten Units 10,000,000

Section 9.

A. SPECIAL MENTAL HEALTH FUND:

(1) There is hereby transferred from the Special Mental Health Trust Fund to the Board of Trustees of University of Alabama \$3,194,194 to be expended under the programmatic area as shown under subsection 12 on page 42

(2) There is hereby transferred from the Special Mental Health Trust Fund \$539,863 to be expended under the programmatic area as shown under subsection 13 on page 42

B. PUBLIC SCHOOL FUND:

For the Public School Fund all funds derived from the levy of the special annual tax of thirty cents on each one hundred dollars (\$100.00) of taxable property in this State for the support and maintenance of the public schools and from other funds mentioned and enumerated in Section 257, 258, and 259 of the Constitution in 1901 and the amount appropriated from all other funds as is now provided by law, provided, however, not more than four percent of all funds appropriated in this Section shall be used or expended otherwise than for the payment of teachers employed in such schools.

Section 10. The State Superintendent of Education shall make requisition on the State Comptroller in favor of the proper beneficiary in accordance with the law and rules and regulations governing the expenditure or disbursement of any and all funds appropriated to the State Department of Education and/or the State Board of Education in this Act, whereupon the Comptroller, shall issue his warrant therefore. All other appropriations in this Act shall be paid by request to the Comptroller made in the manner now provided by law.

Section 11. For leasing from Southern Benedictine College in Cullman, Alabama, by the George C. Wallace Community College at Hanceville the library building and library and other buildings for a period of five years\$200,000

This appropriation shall be conditional upon the condition of the Special Education Trust Fund and upon approval of the Governor.

Section 12. That nothing in this Act shall be construed to affect or repeal any law authorizing or permitting any college, school or other education or eleemosynary institution of the

State to receive, collect or disburse any fees, tuitions, charges, sales, endowments, trusts or income therefrom, which are now or may hereafter be authorized to receive, collect or disburse. The receiving college, school or institution shall further maintain separate accounts for such receipts or shall maintain a system of accounting which will show a cash flow of such receipts received under the provision of this appropriation.

Section 13. The provisions of this Act are severable. If any portion, paragraph, sentence, clause, provision, or portion of this Act, or all or any portion of any appropriation or appropriations herein made, be held unconstitutional or invalid, which holding shall not affect any other section, paragraph, sentence, clause, provision or portion of this Act, or any other appropriation or portion thereof made not in and of itself unconstitutional or invalid.

Section 14. In the event receipts available exceed the amount needed to pay the 1979-80 FY appropriations, then such excess shall be appropriated to those departments, boards, bureaus, etc. which were prorated in the 1978-79 FY. The amount appropriated shall only be in the amount that each department, board, bureau did not receive due to proration in the 1978-79 FY.

In the event the excess receipts for 1979-80 FY is not enough to repay all prorated appropriations for the 1978-79 FY then such excess receipts shall be appropriated in the same ratio as proration was applied in the 1978-79 FY.

Such appropriations shall be conditional upon funds being available in the ASETF and with approval of the Governor.

Section 15. This Act shall become effective on October 1, 1979.

Approved July 30, 1979.

Time: 8:45 A.M.

Act No. 79-459

H. 495—Smith (M), Starkey, Greer,
Coburn, Bennett, Gafford,
Moore, Cheatwood, Howard,
Boles, Brakefield, Shavers,
Stout, Hall, Amari, Zoghby,
Parker, Waggoner, Carter,

Smith (J), Roberts, Letson,
 Patton, Cosby, Sasser, Clark,
 Owens, Turnham, McKee,
 Kennedy (Y), Williams,
 Carothers, Sandusky,
 Harper, Penry, Naramore,
 Whatley

AN ACT

To propose an amendment to the Constitution to provide for a weekly travel allowance for members of the legislature while in session, payable at the same rate as the travel allowance authorized for state employees under the general laws of the state.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901 is hereby proposed:

PROPOSED AMENDMENT

Each member of the Legislature shall be paid a travel allowance for one trip per week during any special or regular session of the Legislature going from his residence to, and returning to his residence from, the seat of state government. The travel allowance provided herein shall be computed at the same per mile rate allowed state employees under the general laws of the state and shall further be computed by the nearest route traveled.

Section 2. An election upon the proposed amendment is ordered to be held at the first election, primary or general, following the expiration of three months from the final adjournment of the current session of the legislature, at which any county, state or national officers are nominated or elected or at which any constitutional amendments are voted upon. The election shall be held in accordance with the provisions of Sections 284 and 285 of the Constitution of Alabama and Sections 17-17-1 through 17-17-6 Code of Alabama 1975, as amended.

Section 3. Notice of the election and of the proposed amendment shall be given by proclamation of the Governor, which proclamation shall be published once a week for four successive weeks next preceding the day appointed for the election in a newspaper in each county of the State. If a newspaper is not published in the county, a copy of the notice shall be posted at the courthouse and in three other places in the county.

CONSTITUTIONAL AMENDMENT

Passed the House July 12, 1979

Passed the Senate July 19, 1979

Act No. 79-460

H. 194—Manley, Clark

AN ACT

To amend Section 36-25-4 of the Code of Alabama 1975 relating to powers and duties of the state ethics commission so as to prohibit said commission from investigating certain complaints regarding public officials.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 36-25-4 of the Code of Alabama 1975 is hereby amended to read as follows:

“§ 36-25-4. It shall be the duty of the commission:

“(1) To prescribe forms for statements required to be filed by this chapter and to furnish such forms to persons required to file such statements.

“(2) To prepare and publish a manual setting forth recommended uniform methods of reporting for use by persons required to file statements required by this chapter.

“(3) To accept and file any information voluntarily supplied that exceeds the requirements of this chapter.

“(4) To develop a filing, coding, and cross-indexing system consonant with the purposes of this chapter.

“(5) To make reports and statements filed with it available at reasonable hours to responsible public inquiry subject to such regulations as the commission may prescribe including, but not limited to, regulations requiring identification by name, occupation, address and telephone number of each such person examining information on file with the commission; provided, that no copies of reports and statements will be removed from the office of the state ethics commission.

“(6) To preserve such reports and statements for a period of six years from date of receipt.

“(7) To make investigations with respect to statements filed under the provisions of this chapter, and with respect to alleged failures to file any statement required under the provisions of this chapter and, upon complaint by any individual with respect to alleged violation of any part of this chapter; and, whenever in its opinion a thorough audit of any person or any business should be made in order to determine whether this chapter has been violated,

the commission shall direct the examiner of public accounts to have such audit made and a report thereof filed with the commission. The examiner of public accounts shall upon receipt of such directive immediately comply therewith.

“(8) To report suspected violations of law to the appropriate law-enforcement authorities.

“(9) To issue upon request and publish advisory opinions on the requirements of this chapter, based on a real or hypothetical set of circumstances. The written opinion of the state ethics commission provided to anyone shall protect such person to whom it is directed from liability to either the state, county or municipal subdivision of the state because of any official action or actions performed as directed or advised in such opinion.

“(10) To initiate and continue programs for the purpose of educating candidates, officials, employees and citizens of Alabama on matters of ethics in government service.

“(11) To prescribe, publish and enforce rules and regulations to carry out the provisions of this chapter. No such rules and regulations, however, shall be adopted until notice thereof is given by publication at least 30 days prior to the date set for adoption thereof and an opportunity afforded to the public to appear and contest such rules and regulations. The commission is authorized only to make rules and regulations on the subject matter specifically mentioned in this chapter.

“(12) After the commission has been organized pursuant to this chapter and has prescribed the rules and regulations and adopted and promulgated such rules and regulations, it shall give notice for 60 days prior thereto of the day on which such rules and regulations shall become effective throughout this state and other provisions of this chapter shall be thereby implemented.

“(13) No member nor employees of said commission shall make any public statement or give out any information concerning any complaint against any individual until the investigation of said complaint is completed and the commission has taken final action as to the disposition of said complaint. Any member or employee of said commission who violates the provisions of this section shall be guilty of a misdemeanor and upon conviction be sentenced to the county jail for one year or be fined up to \$1,000.00, or both.

“(14) The commission shall not take any investigatory action on a telephonic or written complaint against a public official so long as the complainant remains anonymous. Investigatory action on a complaint from an identifiable source shall not be initiated until the

true identity of the source has been ascertained and written verification of such ascertainment is in the commission's files. In all matters that come before the commission concerning a complaint on an individual, the laws of due process shall be strictly adhered to."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on July 19, 1979 without approval by the Governor.

Act No. 79-461

H. 494—Pegues

AN ACT

This bill amends Section 16-5-1 through 16-5-10, Code of Alabama, 1975, an act to establish the Alabama Commission on Higher Education, so as to change the name of the Commission, to expand the membership of the Commission, to establish the Commission as the statewide long-range planning agency for postsecondary education, to provide the Commission with the authority of approval for new units or programs of instruction for academic credit, for advisory coordination of research and public service, the authority to regulate off-campus offerings for academic credit, the authority to regulate units or programs of instruction by non-Alabama institutions, to designate the Commission as the state agency responsible for the administration of those titles of the Higher Education Acts of 1965 as amended for those programs requiring a single state agency and those functions under the Southern Regional Education Compact heretofore assigned to the State Board of Education.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 16-5-1 through 16-5-10, Code of Alabama, 1975, is hereby amended and reenacted to read as follows:

"AN ACT"

To establish the Alabama Commission on Higher Education for the general purpose of promoting an educational system that will provide the highest possible quality of collegiate and university education to all persons in the State able and willing to profit from it; to establish the Commission as the statewide long-range planning agency for postsecondary education; to provide through the Commission for continuous study, analyses, evaluation, planning, reporting and recommendations, as a basis for long-range planning with established priorities on a statewide basis to assure a sound, vigorous, progressive and coordinated system of higher education for the State; to provide the Commission with the authority of approval for new units or programs of instruction for academic credit, for advisory coordination of research and public service, the authority to regulate off-campus offerings for academic

credit, the authority to regulate units or programs of instruction by non-Alabama institutions, to designate the Commission as the state agency responsible for the administration of those titles of the Higher Education Acts of 1965 as amended for those programs requiring a single state agency for which the Commission qualifies and those functions under the Southern Regional Education Compact heretofore assigned to the State Board of Education.

Be It Enacted by the Legislature of Alabama:

Section 1. Definitions.

The following terms shall have the meanings respectively prescribed for them, except when the context otherwise requires:

(a) Public Institutions of Higher Education shall mean those public educational institutions in Alabama which have been authorized by the Legislature or by the Constitution to provide formal education, including vocational, technical, collegiate, professional, or any other form of education, above the secondary school level.

(b) Commission: The Alabama Commission on Higher Education created by this ACT.

(c) Instructional Program: A series of courses at any one location which culminates in a degree, certificate, or other formal recognition of academic credit.

(d) Unit: A school, college, division or institute and includes the establishment of any new branch or campus. The term does not include reasonable extension or alterations of existing curricula or programs which have a direct relationship to existing programs previously approved by the Commission; the Commission may, under its rule-making authority, define the character of such reasonable extension and alterations.

(e) Off-campus Offering: Any credit course, instructional unit or instructional program conducted off the main campus of any postsecondary institution in existence and separately accredited by the Southern Association of Colleges and Schools, at the time of the passage of this Act, or of any new campus previously or hereafter approved by the Commission.

Section 2. Membership.

The Commission shall consist of twelve members. Ten of these members shall be appointed by the Governor, one shall be appointed by the Lt. Governor, and one shall be appointed by the Speaker of the House of Representatives by and with the advice and

consent of the Senate. One person shall be appointed from each United States Congressional District in Alabama and shall reside or maintain an office or place of business within the Congressional District from which he is appointed, and the remaining members shall be appointed from the State at large with no more than two in number of the total twelve members being from the same Congressional District.

The twelve members shall be citizens of the State and shall be selected, as far as may be practicable, on the basis of their interest in higher education. Appointees shall be selected without regard to political affiliation and appointments shall be of a nature as to aid the work of the Commission and to inspire the highest degree of cooperation and confidence. No member of the Commission shall be on the governing boards, be employed by or directly connected with any institution of higher education in the State; the State Department of Education, or any County or other local Board of Education. No member of the Commission shall serve past June 30th following his 70th birthday. All members of the Commission shall be deemed members at large charged with the responsibility of serving the best interest of the entire system of higher education in the State. No member shall act as the representative of any particular region or of any particular institution of higher education. New appointments to the Commission shall be made so that the total membership of the Commission is broadly representative of the total population of the State of Alabama.

The Commission shall serve in an advisory capacity to the Legislature and the Governor of this State in respect to all matters pertaining to state funds for the operation and the allocation of funds for capital improvements of state supported institutions of higher education. The initial membership of the Commission and the term of each initial member is as follows:

Section 3. Tenure - Vacancies.

(A) Members of the Commission shall be selected for nine year terms expiring on August 31 of the respective year. The current nine members are subject to reconfirmation by the Senate and shall continue to the expiration of their respective terms subsequent to such reconfirmation, but shall continue to serve as appointed until such reconfirmation. In the event that the Senate shall fail to reconfirm a current member, the Governor shall with the advice and consent of the Senate appoint a replacement for the unexpired term. Of the three new appointees, one shall be appointed by the Governor for a term of three years, one shall be appointed by the Lt. Governor for a term of six years, and one by the

Speaker of the House of Representatives for a term of nine years.

(B) The members of the Commission shall continue to serve after the expiration of their terms until their successors have been appointed. In the event that the number of Congressional Districts shall change, incumbents on the Commission shall complete their terms as members of the Commission. If the number of Congressional Districts shall change, the membership will remain at twelve with the number of at-large memberships being adjusted, if necessary, so that each Congressional District is represented. If the Senate is not in session or is in recess when the term of a member expires, the initial appointing authority shall make a temporary appointment of a succeeding member who shall serve subject to subsequent Senate approval of the appointment.

(C) Vacancies and new appointments on the Commission shall be filled by appointment of the ex officio officer responsible for the initial appointment. If the Senate is not in session or is in recess when the appointment is made, the appointee shall serve subject to subsequent approval of the appointment.

(D) Any person who serves for five or more years as a member of the Commission shall not be eligible for reappointment to succeed himself or herself until the next vacancy occurs after his or her successor is named.

Section 4. Organization and Meetings.

The first meeting of the Commission shall be called by the Governor who shall preside until a chairman is selected. The Commission shall elect annually from its own members a chairman and such other officers as it may deem desirable and shall adopt rules for its organization in the conduct of its business.

The Commission shall hold regular meetings at such times as are specified in its rules. Special or additional meetings may be held on call of the Chairman, or upon a call signed by at least six members, or upon call of the Governor. The Commission is encouraged to meet as often as seems desirable on the campuses of institutions of higher education in the State. The Commission shall meet at least once every three months. A majority of the members of the Commission shall constitute a quorum at all its meetings but the approval of a new unit or program of instruction or a new public institution of higher education, or the recommendation for a new unit of research or public service as provided in Section 8, shall require the concurrence of a majority of all the members of the Commission. An agenda for the meetings in sufficient detail to indicate the terms on which final action is contemplated shall be

mailed to the chairman of each governing board and to the chief administrative officer of each public institution of higher education at least two weeks prior to the meeting. Any public institution of postsecondary education or the State Board of Education may place an item for discussion on the agenda of the next Commission meeting by informing the executive officer of the Commission, in writing, of such request at least three weeks prior to the meeting.

Members of the Commission shall serve without compensation but shall be reimbursed for actual expenses incurred in the performance of their duties.

The Commission is authorized to appoint a highly qualified person as its Executive Officer who shall, with the consent and approval of the Commission, select and supervise the Commission's staff and perform such other duties as may be delegated to him by the Commission, within the amounts made available for the Commission's operation. The appointment of the Executive Officer shall be subject to confirmation by the Senate each four years beginning with the Regular Session of 1981. Failure of the Senate to confirm the Executive Officer shall result in his or her dismissal within ninety (90) days thereafter.

The Executive Officer shall, with the consent and approval of the Commission, employ such professional and clerical staff and other assistants, including specialists and consultants, upon a full or part-time basis as are necessary to assist the Commission and the Executive Officer in performing the duties assigned by this Act. The number of employees, their compensation, the other expenditures of the Commission shall be within the limits and in compliance with the appropriation made therefor by the Legislature and within budgets that shall be approved from time to time by the Commission.

All full-time employees of the Commission shall be eligible to participate in the state teacher's retirement system.

Section 5. Study, Analysis and Evaluation.

The Commission, in consultation with the agencies and institutions concerned with higher education in this State, shall analyze and evaluate on a continuing basis the present and future needs for instruction, research, and public service in postsecondary education in the state, including facilities, and assess the present and future capabilities. The use of advisory groups and consultants, as deemed desirable, may be used to meet these needs in order to provide the highest possible quality of collegiate and university education to all persons in the State able and willing to participate.

One such advisory committee shall be the Council of Presidents, consisting of the President of each public four-year institution of higher education, the State Superintendent of Education and the presidents of three public two-year institutions of higher education, to be selected by the Superintendent of Education.

Section 6. Planning.

The Commission shall be responsible for statewide long-range planning for postsecondary education in Alabama. Such planning shall be the result of continuous study, analysis and evaluation. Plans will include the establishment of statewide objectives and priorities with methods and guidelines for achieving them.

Section 7. State University and College Information System.

The Commission, after affording a full opportunity to the public institutions of higher education to be heard, shall design and establish a State University and College Information System to provide comprehensive, meaningful, and timely information pertinent to the formulation of decisions and recommendations by the Commission. The information submitted by the public institutions of higher education shall be in comparable terms and the reports developed through the system shall conform to the procedures established by the Commission. The Commission shall be the state coordinating agency for all data collection requirements of the federal government which require state level coordination and relate to postsecondary education. The Commission will make every effort to minimize the reporting burden on the institutions by using the existing reports of the federal government. The Commission shall establish an advisory committee comprised of, but not limited to, representatives of the public institutions of higher education and the State Board of Education to assure that the expertise and concerns of the institutions relative to this section, both individually and collectively, shall be provided to the Commission.

Section 8. Coordination of Units or Programs of Instruction, Research or Public Service.

The Commission on Higher Education is authorized to review periodically all new and existing programs and units of instruction, research, and public service funded by state appropriations at the State Universities and Colleges and to share with the appropriate governing board, through the president of the institution, and state legislature, its recommendations.

The Commission shall seek through the use of advisory committees to study needless duplication of education, research or

service programs and programs which are not adequately provided in the state, and shall make findings and recommendations to the institutions, the Governor and the Legislature that would strengthen the total program of higher education in the state.

The governing boards of public institutions of higher education in this State and the campuses under their governance or supervision shall not hereafter undertake the establishment of any new unit or program of instruction for academic credit with state funds before submitting plans for the new unit or program to the Commission for its review, evaluation, and approval. No state funds shall be expended by any public institution on any new unit or program of instruction which has not been approved by the Commission. Any such plan submitted to the Commission, or its staff, however, and not receiving final action by the Commission within ten (10) months of submission shall be considered approved. The term "new unit of instruction", includes the establishment of a college, school, division or institute, and includes the establishment of any new branch or campus. The term does not include reasonable extensions or alterations of existing curricula, or programs which have a direct relationship to existing programs; and the Commission may, under its rule-making power, define the character of such reasonable extensions and alterations.

The Commission shall have the authority to authorize and regulate off-campus offerings, new or existing. An exception to this off-campus authority is provided for the branch campuses of universities or branch campuses of junior colleges in existence at the time of passage of this act whose Fall 1978 registrations exceeded 500 class enrollments and branch campuses of universities operating prior to 1960. For those branches which began operating since 1960, the Commission shall present its recommendation for the continuation or termination of each branch with full findings of fact to the Legislature before a public joint meeting of the education committees of the House and Senate no later than the fifth legislative day of the 1981 regular session of the Legislature. In making such recommendation, the Commission shall not use the ratio of full-time faculty to part-time faculty and/or a requirement to attend the main campus for degree completion as a part of its judgment of the quality of a program or branch campus. The education committee of each house shall report to its respective house with a concurrence or non-concurrence on each recommendation of the Commission. Debate on each recommendation shall be limited to one hour of continuous uninterrupted discussion for each recommendation and at the end of such time it shall be mandatory that the President of the Senate

and the Speaker of the House shall in their respective houses call for a recorded vote. Such resolution by simple majority of both houses is required to affirm a Commission recommendation. No more than one branch shall be continued or terminated in one resolution.

Nothing in this or any section, however, shall be construed to prohibit any institution of higher education in this State from seeking and securing by separate Bill the approval of the Legislature for any new unit or program of instruction, research, or public service denied approval by the Commission, in which case the action of the Legislature, when approved by the Governor or otherwise upon becoming law, is final.

Colleges and universities conducting off-campus offerings on military reservations are exempt from the Commission's regulatory review and approval authority for those offerings on the military reservation.

Section 9. Budget Proposals and Recommendations.

The governing boards of the public institutions of higher education shall submit to the Commission through their appropriate administrative officers, not later than ninety (90) days prior to each legislative session, its budget proposals for the operation and capital needs of the institution under its governance or supervision.

The Commission shall receive, evaluate and coordinate budget requests for the public institutions of higher education of this State, shall hold open hearings on the budget requests of the separate institutions and shall present to each institution and to the Governor and the Legislature, a single unified budget report containing budget recommendations for separate appropriations to each of the institutions. The consolidated budget and analysis of the Commission shall be accompanied by the original requests and their justifications as submitted by each institution. The recommendations of the Commission shall be derived directly from its assessment of the actual funding needs of each of the universities, as presented to it by the presidents, which assessment may include, but shall not be limited to, derived conclusions that may be based upon standard techniques of objective measurement, need and unit cost figures arrived at through the use of comparative and verified data secured from the various institutions, applied in an impartial and objective manner, and comparison shall be made not only between similar functions of institutions in Alabama but also between Alabama institutions and similar functions of institutions located in other states, provided that nothing herein shall be construed to prohibit any institutions of higher education in

this State from submitting any matter pertaining to the financial operation and needs of said institution to the Legislature or to the Governor at any time.

Section 10. Powers and Duties of the Commission.

The Commission shall exercise the following powers and duties in addition to those otherwise specified in this Act:

(a) To cause to be made such surveys and evaluations of higher education as are believed necessary for the purpose of providing appropriate information to carry out its powers and duties.

(b) To recommend to the Legislature of Alabama the enactment of such legislation as it deems necessary or desirable to insure the highest quality of higher education in this State taking into consideration the orderly development and maintenance of the State system of public higher education to meet trends in population and the change in social and technical requirements of the economy.

(c) To advise and counsel the Governor, at his request, regarding any area of, or matter pertaining to, postsecondary education.

(d) To establish definitions of a junior college, a community college, a technical college or institute, a senior college, a university and university system; provided, that nothing herein shall be construed as authorizing the Commission to establish or create any university system, nor to alter any university system presently existing.

(e) To develop and publish criteria which may be used by the Legislature as a basis (i) for changing the classification of any public institution of higher education and (ii) for determining the need for new public junior colleges, public senior colleges, universities or university systems. Any proposed statute which would establish an additional institution of higher education may be submitted, either prior to introduction or by the standing committee considering same to the Commission for its opinion as to the need for the State therefore, and the Commission shall report its findings to the Governor and the Legislature.

(f) To cause studies to be made for the purpose of classifying and prescribing the role and scope for each public institution of higher education in Alabama and to recommend such changes in classification or role and scope for such institutions as it deems necessary and which may be agreed to by the governing board of

the said institution.

In making studies and recommendations for the purpose of classifying and prescribing the role and scope of institutions, the Commission shall do so without regard for race and traditional role of the institution, provided, however, that in the absence of compelling reasons to the contrary the Commission shall give priority to institutions having seniority in years of operation in the service area. When making recommendations for the elimination of duplication of educationally unnecessary programs, absent justifiable reasons to the contrary, the Commission shall recommend the replacement of such programs and/or services with programs and/or services that will strengthen and enhance the role of the institution affected.

(g) To hear applications from the institutions for changes in classification or role and scope and to recommend to the Legislature for clarification such classifications in role or scope which may not be agreed to by the governing board of any institution.

(h) To make continuing studies, on its own initiative or upon the request of the Governor or the Legislature, of the financial needs of public higher education and issue such reports to the Governor and the Legislature as may result from its studies.

(i) To submit to the Governor and the Legislature on or before the first day in January of each year a written report covering the activities of the Commission and the state of higher education in Alabama. The report shall include:

(i) statements of the nature, progress or result of any studies undertaken or completed during the past fiscal year;

(ii) comments upon major developments, trends, new policies, budgets, and financial considerations which, in the judgment of the Commission will be useful in planning a sound program of higher education; and

(iii) recommendations respecting postsecondary education in this State as may be appropriate.

(j) To make rules and regulations for its meetings, procedures, and execution of the powers and duties delegated to it by this Act.

(k) To encourage the establishment and development of formal consortia for the advancement of higher education comprised of institutions of higher education in the State.

(l) To conduct a program of public information in order to

inform citizens of the State of matters of importance to higher education in Alabama.

(m) To serve as the State agency for the administration of those Titles of the Higher Education Act of 1965 (Public Law 89-329) as amended for those programs requiring a single state agency for which the Commission qualifies, unless otherwise designated by Executive order.

(n) To authorize and regulate instructional programs or units offered by non-Alabama institutions of postsecondary education in the State of Alabama. No institution of postsecondary education located outside of Alabama may offer units or programs of instruction within Alabama without prior approval of the Commission. The Commission under its rule-making authority shall establish criteria for the approval of such institutions and programs.

(o) The powers and duties of the Commission shall apply equally to all postsecondary institutions regardless of any authority that may be, or has been, conferred upon them by the Constitution or by statutes.

Section 11. Southern Regional Education Compact.

The Commission is designated the agency responsible for those functions under the Southern Regional Compact for Education (Act 227, HJR 42, 1949, Act 40 HJR 21, 1955) and those functions in Sections 16-3-32 through 16-3-35, Code of Alabama, 1975 heretofore assigned to the State Board of Education with funds that may be appropriated to it by the Legislature for that purpose.

Section 12. Evaluating and Revising the Commission.

Two years after the establishment of the Commission and during the last year of each gubernatorial term, the Commission shall appoint a committee of at least three consultants who are not associated with higher education in this State to evaluate the effectiveness of the work of the Commission and to recommend changes as needed. A report prepared by the Committee shall be submitted to the Governor, the Legislature, the presidents and governing boards of the public institutions of higher education of this State and the public.

Section 13. Governing Boards of Public Institutions of Higher Education - Powers and Duties.

Governing boards of the public institutions of higher education of this State shall retain all powers and duties heretofore given and conferred upon them by the Constitution or by any law expressed or

implied, to govern, control and operate the institution for which they are responsible. The Commission shall work with and support the respective boards and except where otherwise authorized by this statute, shall act in a fact-finding and advisory capacity.

The State Board of Education and any successor board or boards which govern the state's public postsecondary institutions, including senior institutions, community colleges, junior colleges, and postsecondary technical institutes or colleges, shall stand in the same relationship to the Commission as do university boards of trustees. The State Superintendent of Education shall stand in the same relationship to the Commission as do the presidents of the universities.

Section 14. Acceptance of Gifts, etc.

The Commission is authorized to accept gifts, devises, grants, or bequests and expend the same to carry out the provisions of this Act or to promote the purposes for which it has been established.

Section 15. Severability.

The provisions of the Act are severable. If any section, paragraph, sentence, clause, provisions, or portion of this Act, be held unconstitutional or invalid, such holdings shall not affect any other section, paragraph, sentence, clause, provision or other portion of this Act not in or of itself unconstitutional or invalid.

Section 16. Repealer.

All laws or parts of laws which conflict with this act are hereby repealed.

Section 17. Effective Date.

This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 12:15 P.M.

Act No. 79-462

H. 573—Manley

AN ACT

To amend Sections 8-6-3, 8-6-7, 8-6-8, 8-6-11, 8-6-12, 8-6-18, 8-6-57 and 8-6-58, Code of Alabama 1975, relating to the Alabama Securities Act, so as to further

delineate the circumstances under which the commission may deny, suspend or revoke registration of dealers or salesmen; to require the submission of an opinion of counsel as to the legality of securities being registered by qualification; to provide that registration by qualification shall be effective for a period of one year; to further define an isolated transaction; to increase the filing fee for application for exemption from registration in certain nonpublic offerings of securities; to further define the scope of the act with respect to when an offer or sale is made in this state; to increase the criminal penalties for violation of the act and provide for its enforcement; to change the merit system classification of the deputy director; and to provide for the employment of additional personnel.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 8-6-3, Code of Alabama 1975, is hereby amended to read as follows:

“Section 8-6-3. (a) It is unlawful for any person to transact business in this state as a dealer or salesman for securities unless he is registered under this article. It is unlawful for any dealer or issuer to employ a salesman unless the salesman is registered.

“(b) A dealer or salesman may apply for registration by filing with the securities commission an application, together with a consent to service of process pursuant to Section 8-6-12 and payment of the fee prescribed in subsection (f) of this section. Registration of a dealer automatically constitutes registration of all partners or executive officers of such dealer as salesmen, except any partner or executive officer whose registration as a salesman is denied, suspended or revoked under subsection (h) of this section, without the filing of applications for registration as salesmen. The application shall contain whatever information the commission requires concerning such matters as:

- “(1) The applicant's form and place of organization;
- “(2) The applicant's proposed method of doing business;
- “(3) The qualifications and business history of the applicant and, in the case of a dealer, any partner, officer or director;
- “(4) Any injunction or administrative order or conviction of a misdemeanor involving moral turpitude, a security or any aspect of the securities business, any conviction of a felony; and
- “(5) The applicant's financial condition and history.

“(c) Before any dealer registration shall be effective under this article, such dealer shall enter into a bond of not less than \$10,000.00, which said bond shall be payable to the state of Alabama, shall be executed by the dealer and a corporation qualified to do business as a surety company in the state of Alabama and shall be filed with the securities commission. Said bond shall be in such form as the commission shall from time to time designate

and shall be conditioned upon the faithful accounting of all moneys and securities of another and for the payment of any judgment entered by a court of competent jurisdiction against such dealer or agent of such dealer, one or both, in any civil action in Alabama based upon fraud or misrepresentation in the sale in Alabama of any security. Any original purchaser of securities from or through any such registered dealer or other person damaged by any breach in the conditions of said bond shall have a right of action upon said bond for the damages suffered thereby. No action may be maintained to enforce any liability under the bond unless brought within two years after the sale or other action upon which such action is based. One or more recoveries upon such bond shall not vitiate the same, but the aggregate amount of such recoveries thereon shall not exceed the amount of such bond. Any recovery on such bond shall be sufficient cause for cancelling or revoking such dealer's registration; provided, however, that no bond shall be filed as a pre-requisite to registration by a dealer whose net worth exceeds \$25,000.00. In computing net worth for the purpose of determining whether a bond shall be required, the commission shall consider as assets of the dealer only cash, customer and dealer debit balances and securities at 80 percent of market value; all liabilities of the dealer shall be considered in such computation. For the purpose of determining the market value of the securities of a dealer applicant under this section, the commission may appoint three registered securities dealers, or representatives thereof, to make an appraisal of such securities.

“(d) If no denial order is in effect and no proceeding is pending under subsection (h) of this section, registration becomes effective at noon on the sixtieth day after an application is filed. The securities commission may specify an earlier date, and it may by order defer the effective date until noon of the sixtieth day after the filing of any amendment. The commission shall require as conditions of registration that:

“(1) For all registrations granted after January 1, 1960, the applicant and, in the case of a corporation or partnership, the officers or partners pass a written examination as evidence of knowledge of the securities business. The commission shall accept in lieu of any examination given by it the examination given by the national association of securities dealers or the securities and exchange commission examination (SECO exam). The commission shall prepare and give an examination at intervals not more frequent than biweekly. For the purpose of assisting in the preparation and the grading of this examination, the commission shall appoint three representatives from the securities industry,

one to serve for three years, one to serve two years and one to serve one year; the members of such board shall serve for the aforementioned periods or until their successors have been appointed. All subsequent appointments shall be for three-year terms. Vacancies occurring from death, resignation or other reasons shall be filled by appointment by the commission for the unexpired term. Where examinations contemplated by this subsection are given by the commission, the applicants and, in the case of corporations or partnerships, each officer or partner shall pay an examination fee of \$10.00 which shall be deposited in the general fund in the state treasury.

“(2) A dealer shall have a minimum net worth of \$10,000.00, but the commission shall not require net worth in excess of \$50,000.00; net worth to be computed as designated in subsection (c) of this section.

“Registration of a dealer or salesman shall be effective until April 1 of the following year and may be renewed as hereinafter provided.

“(e) Registration of a dealer or salesman may be renewed by filing with the securities commission, prior to the expiration thereof, an application containing such information as the commission may require to indicate any material change in the information contained in the original application or any renewal application for registration as a dealer or salesman filed with the commission by the applicant, payment of the prescribed fee and, in the case of a dealer, a dealer's bond as provided in subsection (c) of this section if the financial condition of the dealer requires such bond. In order to continue the effectiveness of registration and to entitle the dealer to a renewal thereof, such dealer must file a financial statement prepared in accordance with standard accounting practice and certified by an independent certified public accountant showing the financial condition of such dealer at the close of the dealer's fiscal period. Said statement must be filed with the commission within 45 days after the close of the dealer's fiscal period unless an extension of time is granted by the commission, and the commission shall accept for filing a financial statement in the form required to be filed with the securities and exchange commission from those dealers who are registered therewith. A registered dealer may file an application for registration of a successor, whether or not the successor is then in existence, for the unexpired portion of the year without payment of any fee.

"(f) The fee for initial or renewal registration shall be \$100.00 for a dealer and \$20.00 for a salesman. When an application is denied or withdrawn, the securities commission shall retain 50 percent of the fee.

"(g) Every registered dealer shall make and keep such account and other records, except with respect to securities exempt under subsection (a) of Section 8-6-10, as the securities commission prescribes. All records so required shall be preserved for five years unless the commission prescribes otherwise for particular types of records. All the records of a registered dealer are subject at any time or from time to time to such reasonable periodic, special or other examinations by representatives of the commission, within or without this state, as the commission deems necessary or appropriate in the public interest or for the protection of investors.

"(h) The securities commission may by order deny, suspend or revoke registration of any dealer or salesman if he finds that the order is in the public interest and that the applicant or registrant or, in the case of a dealer, any partner, officer or director:

"(1) Has filed an application for registration under this section which, as of its effective date or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact;

"(2) Has willfully violated or willfully failed to comply with any provisions of this article, or a predecessor act, or any rule or order under this article or a predecessor act;

"(3) Has been convicted of any misdemeanor involving moral turpitude, a security or any aspect of the securities business or any felony;

"(4) Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities business;

"(5) Is the subject of an order of the commission denying, suspending or revoking registration as a dealer or salesman;

"(6) Is the subject of an order entered within the past 10 years by the securities administrator of any other state or by the securities and exchange commission denying or revoking registration as a dealer or salesman, or the substantial equivalent of those terms as defined in this article, is the subject of an order of the securities and exchange commission suspending or expelling him

from a national securities exchange or national securities association registered under the securities exchange act of 1934, or is the subject of a United States post office fraud order; but:

“a. The commission may not institute a revocation or suspension proceeding under this subsection more than two years from the date of the order relied on, and

“b. It may not enter any order under this subsection on the basis of an order unless that order was based on facts which would currently constitute a ground for an order under this section;

“(7) Has engaged in dishonest or unethical practices in the securities business;

“(8) Is insolvent, either in the sense that his liabilities exceed his assets or in the sense that he cannot meet his obligations as they mature, but the commission may not enter an order against a dealer under this subsection without a finding of insolvency as to the dealer;

“(9) Has not complied with a condition imposed by the commission under subsection (d) of this section, or is not qualified on the basis of such factors as training, experience or knowledge of the securities business;

“(10) Has failed reasonably to supervise his agents if he is a dealer; or

“(11) Has failed to pay the proper filing fee, but the commission may enter only a denial order under this subsection, and it shall vacate any such order when the deficiency has been corrected.

“The commission may not institute a suspension or revocation proceeding on the basis of a fact or transaction known to it when registration became effective. The commission may by order summarily postpone or suspend registration pending final determination of any proceeding under this subsection. Upon the entry of the order, the commission shall promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant or registrant is a salesman, that it has been entered and of the reasons therefor and that within 15 days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the commission, the order will remain in effect until it is modified or vacated by the commission. If a hearing is requested or ordered, the commission, after notice of an opportunity for hearing, may modify or vacate the order or extend it until final determination. No order

may be entered under this section denying or revoking registration without appropriate prior notice to the applicant or registrant as well as the employer or prospective employer if the applicant or registrant is a salesman, opportunity for hearing and written findings of fact and conclusions of law.

“(i) If the securities commission finds that any registrant or applicant for registration is no longer in existence, has ceased to do business as a dealer or salesman, is subject to an adjudication of mental incompetence or to the control of a committee, conservator or guardian or cannot be located after reasonable search, the commission may by order cancel the registration or application.”

Section 2. Section 8-6-7, Code of Alabama 1975, is hereby amended to read as follows:

“§ 8-6-7. (a) Any security may be registered by qualification.

“(b) A registration statement under this section shall contain the following information and be accompanied by the following documents in addition to payment of the registration fee prescribed in section 8-6-8 and, if required under section 8-6-12, a consent to service of process meeting the requirements of that section:

“(1) With respect to the issuer and any significant subsidiary, its name, address and form of organizations, the state or foreign jurisdiction and date of its organization, the general character and location of its business and a description of its physical properties and equipment;

“(2) With respect to every director and officer of the issuer or person occupying a similar status or performing similar functions, his name, address and principal occupation for the past five years, the amount of securities of the issuer held by him as of the date of the offering and a record of any securities of the issuer held by him previous to the filing of the application and the offering date and the remuneration paid to all such persons in the aggregate during the past 12 months and estimated to be paid during the next 12 months, directly or indirectly, by the issuer and its predecessors, parents and subsidiaries;

“(3) With respect to any person not named in subdivision (b) (2), owning of record, or beneficially if known, 10 percent or more of the outstanding shares of any class of equity security of the issuer, the information specified in subdivision (b) (2) of this section other than his occupation;

“(4) With respect to every promoter not named in subdivision (b) (2) of this section, if the issuer was organized within the past three years, the information specified in subdivision (b) (2), any amount paid to him and the consideration for any such payment;

“(5) The capitalization and long-term debt, on both a current and a pro forma basis, of the issuer and any significant subsidiary, including a description of each security outstanding or being registered or otherwise offered, and a statement of the amount and kind of consideration, whether in the form of cash, physical assets, services, patents, goodwill or anything else, for which the issuer or any subsidiary has issued any of its securities within the past two years or is obligated to issue any of its securities;

“(6) The kind and amount of securities to be offered, the amount to be offered in this state, the proposed offering price and any variation therefrom at which any portion of the offering is to be made to any persons except as underwriting and selling discounts and commissions, the estimated aggregate underwriting and selling discounts or commissions and finders’ fees, including separately cash, securities or anything else of value to accrue to the underwriters in connection with the offering, the estimated amounts of other selling expenses and legal, engineering and accounting expenses to be incurred by the issuer in connection with the offering, the name and address of every underwriter and every recipient of a finder’s fee, a copy of any underwriting or selling group agreement pursuant to which the distribution is to be made or the proposed form of any such agreement whose terms have not yet been determined, and a description of the plan of distribution of any securities which are to be offered otherwise than through an underwriter;

“(7) The estimated cash proceeds to be received by the issuer from the offering, the purposes for which the proceeds are to be used by the issuer, the amount to be used for each purpose, the order or priority in which the proceeds will be used for the purpose stated, the amounts of any funds to be raised from other sources to achieve the purposes stated and the sources of any such funds and, if any part of the proceeds is to be used to acquire any property, including goodwill, otherwise than in the ordinary course of business, the names and addresses of the vendors and the purchase price;

“(8) A description of any stock options or other security options outstanding or to be created in connection with the offering, together with the amount of any such options held or to be held by every person required to be named in subdivisions (b) (2), (b) (3), (b) (4), (b) (5) or (b) (7) of this section and by any persons who hold or will hold 10 percent or more in the aggregate of any such options;

“(9) The states in which a registration statement or similar document in connection with the offering has been or is expected to be filed;

“(10) Any adverse order or judgment previously entered in connection with the offering by any court or the securities and exchange commission and a description of any pending litigation or proceeding to which the issuer is a party and which materially affects its business or assets, including any such litigation or proceeding known to be contemplated;

“(11) A copy of any prospectus or circular intended as of the effective date to be used in connection with the offering;

“(12) A specimen or copy of the security being registered, a copy of the issuer's articles of incorporation and bylaws as currently in effect and a copy of any indenture or other instrument covering the security to be registered;

“(13) A signed or conformed copy of an opinion of counsel as to the legality of the security being registered, which shall state whether the security when sold will be legally issued, fully paid, and non-assessable, and, if a debt security, a binding obligation of the issuer;

“(14) A balance sheet of the issuer as of a date within four months prior to the filing of the registration statement, a profit and loss statement and analysis of surplus for each of the three fiscal years preceding the date of the balance sheet and for any period between the close of the last fiscal year and the date of the balance sheet or for the period of the issuer's and any predecessor's existence if less than three years and, if any part of the proceeds of the offering is to be applied to the purchase of any business, the same financial statements which would be required if that business were the registrant.

“(c) A registration statement under this section becomes effective when the securities commission so orders. The commission may require as a condition of registration under this section that a prospectus containing any designated part of the information specified in subsection (b) of this section be sent or given to each person to whom an offer is made before or concurrently with:

“(1) The first written offer made to him, otherwise than by means of a public advertisement, by or for the account of the issuer or any other person on whose behalf the offering is being made or by any underwriter or dealer who is offering part of an unsold allotment or subscription taken by him as a participant in the distribution,

“(2) The confirmation of any sale made by or for the account of any such person,

“(3) Payment pursuant to any such sale, or

“(4) Delivery of the security pursuant to any such sale, whichever first occurs; but the commission shall accept for use under any such requirement a current prospectus or offering circular regarding the same securities filed under the securities act of 1933 or regulations thereunder.”

Section 3. Section 8-6-8, Code of Alabama 1975, is hereby amended to read as follows:

“§ 8-6-8. (a) A registration statement on securities may be filed by the issuer, any other person on whose behalf the offering is to be made or registered dealer, except that a registration statement in connection with registration by coordination must be filed by a dealer registered as such with the securities commission. Any document filed under this article within five years preceding the filing of a registration statement may be incorporated by reference in the registration statement to the extent that the document is currently accurate. The commission may permit, by rule or otherwise, the omission of any item of information or document from any registration statement.

“(b) The securities commission may require as a condition of registration by qualification or coordination that (1) proceeds from the sale of the registered security be impounded until the issuer receives a specified amount or (2) any security issued within the past three years, or to be issued, to a promoter for a consideration substantially different from the public offering price or to any person for a consideration other than cash be delivered in escrow to him or to some other depository satisfactory to him under an escrow agreement that the owners of such securities shall not be entitled to sell or transfer such securities or to withdraw such securities from escrow until all other stockholders who have paid for their stock in cash shall have been paid a dividend or dividends aggregating not less than six percent of the initial offering price shown to the satisfaction of the commission to have been actually earned on the investment in any common stock so held. The commission shall not reject a depository solely because of location in another state. In case of dissolution or insolvency during the time such securities are held in escrow, the owner of such securities shall not participate in the assets until after the owners of all other securities shall have been paid in full.

“(c) (1) No securities shall be registered by qualification until the applicant or applicants have entered into a bond of not less than five percent nor more than 10 percent of the aggregate selling price of the securities to be registered by qualification, provided that in

no event shall the amount of the bond be more than \$100,000.00. The amount of said bond shall be fixed by the securities commission in its order admitting said securities to record. Said bond shall be payable to the state of Alabama and be conditioned upon the truthfulness of the statements set forth in the registration statement filed with the commission and of the written evidence or other probative matter filed with the commission in connection with such registration statement and for the faithful compliance by said applicant and his salesmen with the provisions of this article and of any lawful condition or requirement made by the commission in registering such securities. Said bond shall be made with a surety company authorized to do business in the state of Alabama and shall be filed with and approved by the commission.

“(2) Any original purchase of such securities or other person injured by a breach of any condition in said bond shall have a right of action upon said bond for the amount of damages suffered thereby, but such right of action shall be barred unless an action is instituted thereon within two years from the time such cause of action arises. One or more recoveries upon such bond shall not vitiate the same, but no recoveries thereon shall ever exceed the full amount of such bond. Upon actions being filed in excess of the amount of such bond, the securities commission shall require a new bond, and if same is not filed with and approved by the commission within 30 days thereafter, the commission shall revoke the registration of the securities involved. All liability upon any such bond shall be extinguished upon the expiration of two years from the date of the last original sale by the issuer, or his salesmen, of any of the securities registered and authorized to be sold pursuant to the registration statement on account of which such bond has been required by the commission.

“(d) The securities commission shall take official action on the application for registration by qualification within 45 days after the application has been filed and give written notice thereof, to the applicant or applicants. If the application is denied, the notice shall state the grounds for denial or, if action is delayed, the notice shall state the reasons for the delay.

“(e) For the registration of securities there shall be paid to the securities commission a filing fee of \$40.00, plus a registration fee of one tenth of one percent of the aggregate offering price of the securities which are to be offered in this state, but the registration fee shall in no case be more than \$1,000.00. When a registration statement is withdrawn before the effective date or a preeffective stop order is entered under section 8-6-9, the commission shall

retain the filing fee and one half of the registration fee. For the registration of securities issued by a face-amount certificate company or a redeemable security issued by an open-end management company or unit investment trust, as those terms are defined in the investment company act of 1940, a new registration fee shall be paid each year that the registration remains in effect based upon the aggregate offering price of such securities which are to be offered in this state during that year, even though the maximum fee was paid the preceding year, and the registration statement for such securities may be amended to increase the amount of securities to be offered.

“(f) When securities are registered they may be offered and sold by the issuer, any other person on whose behalf they are registered or by any registered dealer. Every registration statement is effective for one year from its effective date, or any longer period during which the security is being offered or distributed in a non-exempted transaction by or for the account of the issuer or other person on whose behalf the offering is being made or by any underwriter or dealer who is still offering part of an unsold allotment or subscription taken by him as a participant in the distribution, except during the time a stop order is in effect under section 8-6-9. All outstanding securities of the same class as a registered security are considered to be registered for the purpose of any nonissuer transaction (1) so long as the registration statement is effective and (2) between the thirtieth day after the entry of any stop order suspending or revoking the effectiveness of the registration statement under section 8-6-9, if the registration statement did not release in whole or in part to a nonissuer distribution, and one year from the effective date of the registration statement. A registration statement which has become effective may not be withdrawn for a period of one year from its effective date if any securities of the same class are outstanding. A registration statement may be withdrawn otherwise only in the discretion of the commission.

“(g) The securities commission may require the person who filed the registration statement to file reports, but not more often than quarterly, to keep reasonably current the information contained in the registration statement and to disclose the progress of the offering with respect to securities registered by coordination and notification; provided, however, that where a registration statement has been filed by a person other than the issuer or an affiliate of the issuer, the commission may require such person to file such reports on an annual basis only.

“(h) Every issuer whose securities have been registered by

qualification and the registration of whose securities has not been cancelled and who has not been discharged from filing further quarterly reports under the provisions of subsection (i) of this section shall file within 30 days after the close of business on December 31, March 31, June 30 and September 30 of each year and at such other reasonable times as may be required by the securities commission, a statement, verified under oath by some person having actual knowledge of the facts therein stated, setting forth, in such form as may be prescribed by the commission, the financial condition, the amount of assets and liabilities of such issuer on the above date and such other information as the commission may require. Each statement shall be accompanied by a filing fee of \$10.00. If any issuer subject to the provisions of this subsection shall willfully fail or refuse to comply with any of the provisions of this subsection and shall continue to so fail or refuse for 30 days after notice or demand, the registration statement of said issuer's securities shall thereupon be revoked, and it shall thereafter be unlawful for any such issuer, his agent or agents, any dealer or salesman to sell such securities in this state.

"(i) Any issuer, whose securities have been registered by qualification as provided in section 8-6-7, who has completed the sale of the securities so registered, or who desires to discontinue the sale of said registered securities, and who desires to be discharged from further supervision of the securities commission or from further compliance with the Alabama securities law may file with the commission a notice in writing to such effect, and the commission may thereupon enter an order cancelling the registration of such securities; and such issuer shall thereupon be discharged from filing any financial report except as the commission may require up to and including the date of the filing of said notice as hereinabove provided. No such notice may be filed within one year after the effective date of the registration statement if any securities of the same class as those registered are outstanding."

Section 4. Section 8-6-11, Code of Alabama 1975, is hereby amended to read as follows:

"§ 8-6-11. (a) Except as hereinafter in this section expressly provided, sections 8-6-3 through 8-6-9 shall not apply to any of the following transactions:

"(1) Any isolated nonissuer transaction, whether effected through a dealer or not;

"(2) Any nonissuer distribution of an outstanding security by a registered dealer if:

"a. A recognized securities manual contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date within 18 months and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations; or

"b. The security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year, within the three preceding fiscal years or during the existence of the issuer and any predecessors if less than three years in the payment of principal, interest or dividends on the security; or

"c. The securities have been outstanding for at least three years;

"(3) any nonissuer transaction effected by or through a registered dealer pursuant to an unsolicited order or offer to buy;

"(4) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter or among underwriters;

"(5) Any transaction in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust or by an agreement for the sale of real estate or chattels if the entire mortgage, deed of trust or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit;

"(6) The sale or the offering for sale of any security at any judicial, executor's, administrator's, guardian or conservator's sale, or at any sale by a receiver or trustee in insolvency or bankruptcy;

"(7) Any transaction executed by a bona fide pledge without any purpose of evading this article;

"(8) Any offer or sale to a bank, savings institution, credit union, trust company, insurance company or investment company as defined in the investment company act of 1940, pension or profit-sharing trust or other financial institution or institutional buyer, or to a dealer, whether the purchaser is acting for itself or in some fiduciary capacity;

"(9) Any transaction pursuant to an offer directed by the offeror to not more than 10 persons, other than those designated in subdivision (a) (8) of this section in this state during any period of 12 consecutive months, whether or not the offeror or any of the offerees is then present in this state if:

"a. The seller reasonably believes that all the buyers are purchasing for investment; and

"b. No commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer. But the securities commission may by rule or order, as to any security or transaction or any type of security or transaction, withdraw or further condition this exemption or decrease or increase the number of offerees permitted, or waive the conditions in paragraphs a. and b. of this subdivision (9) with or without the substitution of a limitation on remuneration.

"(10) Any offer or sale of a preorganization certificate or subscription if:

"a. No commission or other remuneration is paid or given directly or indirectly for soliciting any prospective subscriber;

"b. The number of subscribers does not exceed 10; and

"c. No payment is made by any subscriber. However, the securities commission may by rule or order increase the number of subscribers permitted under this exemption in any specific offering.

"(11) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants or transferable warrants exercisable within not more than 90 days of their issuance, if:

"a. No commission or other remuneration, other than a standby commission, is paid or given directly or indirectly for soliciting any security holder in this state; or

"b. The issuer first files a notice specifying the terms of the offer and the securities commission does not by order disallow the exemption within the next five full business days;

"(12) Any offer, but not a sale, of a security for which registration statements have been filed under both this article and the securities act of 1933 if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under either act;

"(13) The issuance of any stock dividend, whether the corporation distributing the dividend is the issuer of the stock or not, if nothing of value is given by stockholders for the distribution other than the surrender of a right to a cash dividend where the stockholder can elect to take a dividend in cash or stock; or

“(14) Any transaction incident to a right of conversion or a statutory or judicially approved reclassification, recapitalization, reorganization, quasi-reorganization, stock split, reverse stock split, merger, consolidation or sale of assets.

“(b) The securities commission may by order deny or revoke the exemption specified in this section with respect to a specific security if it finds the sale of such security would work or tend to work a fraud upon the purchasers thereof. Upon the entry of such an order, the commission shall promptly notify all registered dealers that it has been entered and of the reasons therefor and that within 15 days of the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the commission, the order will remain in effect until it is modified or vacated by the commission. If a hearing is requested or ordered, the commission, after notice of an opportunity for hearing to all interested persons, may modify or vacate the order or extend it until final determination. No order under this subsection may operate retroactively. No person may be considered to have violated this article by reason of any offer or sale effected after the entry of an order under this subsection if he sustains the burden of proof that he did not know and in the exercise of reasonable care could not have known of the order. In any proceeding under this article, the burden of proving an exemption from a definition is upon the person claiming it.

“(c) Any individual, corporation, partnership or association who makes application to the securities commission for any exemption from full registration under the provisions of subdivisions (a) (9) and (a) (10) of this section shall be assessed a filing fee in the amount of \$150.00 upon application for such exemption. Said fee shall accompany the application and shall not be refunded whether the application is approved or rejected. Fees collected under this subsection shall be deposited in a special account in the state treasury for the use of the commission in the administration of this article.”

Section 5. Section 8-6-12, Code of Alabama 1975, is hereby amended to read as follows:

“Section 8-6-12. (a) The provisions of this article shall apply to persons who sell or offer to sell when

“(1) an offer to sell is made in this state, or

“(2) an offer to buy is made and accepted in this state.

“(b) The provisions of this article shall apply to persons who buy or offer to buy when

“(1) an offer to buy is made in this state, or

“(2) an offer to sell is made and accepted in this state.

“(c) An offer to sell or to buy is made in this state, whether or not either party is then present in this state, when the offer

“(1) originates from this state, or

“(2) is directed by the offeror to this state and received at the place to which it is directed (or at any post office in this state in the case of a mailed offer).

“(d) An offer to buy or to sell is accepted in this state when acceptance

“(1) is communicated to the offeror in this state, and

“(2) has not previously been communicated to the offeror, orally or in writing, outside this state; and acceptance is communicated to the offeror in this state, whether or not either party is then present in this state, when the offeree directs it to the offeror in this state reasonably believing the offeror to be in this state and it is received at the place to which it is directed (or at any post office in this state in the case of a mailed acceptance).

“(e) (1) Every applicant for registration as a dealer or salesman under this article and every issuer which proposes to offer a security in this state through any person acting on an agency basis in the commonlaw sense shall file with the security commission, in such form as it prescribes, an irrevocable consent appointing the secretary of state to be his attorney to receive service of any lawful process in any non-criminal action or proceeding against him, or his successor, executor or administrator, which arises under this article or any rule or order hereunder after the consent has been filed with the same force and validity as if served personally on the person filing the consent.

“(2) A person who has filed such a consent in connection with a previous registration need not file another.

“(3) Service may be made by leaving a copy of the process in the office of the secretary of state, but it is not effective unless:

“a. The plaintiff, who may be the securities commission, in an action or proceeding instituted by it, forthwith sends notice of the service and a copy of the process by registered mail to the defendant or respondent at his last address on file with the commission, and

“b. The plaintiff's affidavit of compliance with this clause is filed in the case on or before the return day of the process, if any, or

within such further time as the court allows; provided however, that this subsection shall not apply to an issuer whose securities are registered by coordination with the commission."

Section 6. Section 8-6-18, Code of Alabama 1975, is hereby amended to read as follows:

"§ 8-6-18. (a) Any person who willfully violates any provisions of this article shall, upon conviction, be fined not more than \$15,000.00 or imprisoned not more than ten years or both. No prosecution may be commenced under this article more than five years after the alleged violation.

"(b) Any person who willfully violates any rule or order under this article shall, upon conviction, be fined not more than \$500.00 or sentenced to the county jail for not more than 12 months, or both.

"(c) The enforcement of the provisions of this article shall be vested in the securities commission. It shall be the duty of the commission to see that its provisions are at all times obeyed and to take such measures and to make such investigations as will prevent or detect the violation of any provision thereof. The commission shall at once lay before the district attorney of the proper county any evidence which shall come to its knowledge of criminality under this article. In the event of the neglect or refusal of the district attorney to institute and prosecute such violation, the commission shall be authorized to proceed therein with all the rights, privileges and powers conferred by law upon district or court attorneys including the power to appear before grand juries and to interrogate witnesses before such grand juries.

"(d) Nothing in this article limits the power of the state to punish any person for any conduct which constitutes a crime by statute or at common law.

"(e) In any proceeding under this article, scienter need not be alleged and proved in prosecutions involving the sale of unregistered securities or in the failure to register as a dealer or salesman under this article."

Section 7. Section 8-6-57, Code of Alabama 1975, is hereby amended to read as follows:

"§ 8-6-57. (a) With the approval of the securities commission and subject to the provisions of the merit system law, the director thereof may designate a deputy director, who shall possess qualifications fixed by the commission with the approval of the personnel department, and who shall perform such duties as the director shall designate,

“(b) In the absence of the director or his inability to act, the deputy director shall perform such duties as are required to be performed by the director.

“(c) The compensation of the deputy director shall be fixed by the commission, subject to the approval of the personnel department, in the salary range payable to attorneys in the merit system classification of attorney III.”

Section 8. Section 8-6-58, Code of Alabama 1975, is hereby amended to read as follows:

“§ 8-6-58. (a) The director of the securities commission shall prepare in writing a manual of necessary employee positions for the commission, including job classifications, personnel qualifications, duties, maximum and minimum salary schedules and other personnel information for approval by the commission.

“(b) Subject to the provisions of the merit system law, the director may select, appoint and employ such accountants, auditors, financial analysts, examiners, clerks, and other personnel as he deems necessary for the proper administration of the Alabama securities laws including legal counsel to act as attorneys for the commission in actions or proceedings brought by or against the commission under or pursuant to any provision of law under the commission's jurisdiction, or in which the commission joins or intervenes as to a matter within the commission's jurisdiction, as a friend of the court or otherwise, and stenographic reporters to take and transcribe the testimony in any formal or informal hearing or investigation before the commission or before a person authorized by the commission.”

Section 9. All laws or parts of laws which conflict with this act are hereby repealed.

Section 10. All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this act takes effect, are hereby saved and may be consummated according to the law in force when they were commenced. This act shall not be construed to affect any prosecution pending or begun before the effective date of this act.

The enactment of subsections (a), (b), (c) and (d) of Section 8-6-12 shall not be construed to imply that the Securities Act of Alabama had no application in the circumstances now set forth in subsections (a), (b), (c) and (d) of Section 8-6-12 prior to the enactment of those subsections. Subsections (a), (b), (c) and (d) of Section 8-6-12 shall be supplemental to, and not in derogation of, any administrative or judicial interpretation which may have

existed prior to the enactment of those subsections.

Section 11. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 12. This act shall take effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Approved July 30, 1979

Time: 10:40 A.M.

Act No. 79-463

H. 758—Stout

AN ACT

To ratify the action of cities or towns in awarding and proceeding under contracts for improvements, the cost of which is to be assessed against the property drained, served or benefited by such improvements, when bids for the construction of such improvements were received and contracts were awarded and executed before the holding of the protest meeting required by Section 11-48-8 of the CODE OF ALABAMA 1975, and to state the limitations on such ratification.

Be It Enacted by the Legislature of Alabama:

1. In all cases where any city or town has undertaken a program of public improvements, the cost of which was or is to be assessed in whole or in part against the property drained, served or benefited by such improvements, the action of such city or town in receiving construction bids, awarding and executing a construction contract or contracts pursuant to such bids, and commencing performance thereunder prior to the adoption of the improvement ordinance or resolution and prior to the holding of the protest meeting required by Section 11-48-8 of the CODE OF ALABAMA 1975 is hereby ratified and confirmed, and the actions of such cities or towns in proceeding with the program of public improvements and assessing the cost thereof or any part of such cost against the property drained, served or benefited by the improvements, which costs are determined in part by reference to the amounts paid under any such contract or contracts, are hereby ratified and confirmed; provided that, before any such assessments are or were made final the appropriate improvement ordinance or resolution was adopted and the required protest meeting or hearing was convened, held and conducted in the manner required by law.

2. This Act shall not apply to any such contract, the validity of which has been, prior to the adoption hereof, successfully challenged in a court of competent jurisdiction by judgment

entered prior to the effective date of this Act, or to any contract when litigation relating to any such contract is pending on the effective date of this Act.

3. This Act shall take effect immediately upon its passage and approval by the Governor or its otherwise becoming law.

Approved July 30, 1979

Time: 10:35 A.M.

Act No. 79-464

H. 387—Owens

AN ACT

To provide that legislative appropriations for the fiscal year ending September 30, 1980 to the University of Alabama in Birmingham and the University of South Alabama are for the unrestricted support of the activities of the Universities and therefore insurance companies are prohibited from applying or taking into account in any manner any portion of those appropriations in determining reimbursement for patient care activities.

Be It Enacted by the Legislature of Alabama:

Section 1. Any appropriations made by the Legislature of Alabama to the University of Alabama in Birmingham and the University of South Alabama for the fiscal year ending on September 30, 1980, shall be for the unrestricted support of the activities of the said Universities and therefore insurance companies, whether operated for profit or not for profit, licensed under the laws of the State of Alabama, whether acting on their own behalf or for others, are prohibited from applying or taking into account in any manner whatsoever, any portion of those appropriations in determining reimbursement for patient care activities.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 10:35 A.M.

Act No. 79-465

S. 402—Goodwin

AN ACT

To amend Section 17-4-25 of the Code of Alabama 1975 relating to the clerical assistants and help for the judge of probate for the preparation of the list of qualified electors which the judge of probate is required to furnish the election inspectors.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 17-4-25 of the Code of Alabama 1975 is hereby amended to read as follows:

“§ 17-4-25. The judge of probate may employ such assistants and clerical help as may be necessary to complete and properly prepare the list of qualified electors which the judge of probate is required to furnish the election inspectors. The judge of probate shall receive or such assistants shall be paid out of the county treasury by warrants, drawn by the county commission on certificate of the probate judge, accompanied by the certificates of the person being paid, showing the amount is due under the provisions of this chapter, but the entire amount spent for the preparation of such lists shall not exceed a sum equal to the amount obtained by multiplying the number of names on said list by \$.05 for the preparation of such list. The judge of probate in all counties having a population of not less than 100,000 nor more than 350,000, according to the last or any subsequent federal census, is hereby authorized and directed to employ a clerk to assist the board of registrars of said county. The duties of said clerk shall be to submit to the board of registrars revised election lists of said county by placing all persons in their proper ward or precincts and eliminating therefrom all deceased, nonresident and fictitious persons named upon said roll and those convicted of crime, and shall further attend to all clerical work of the board of registrars. Such clerk shall be paid a compensation out of the county treasury, of not more than \$250.00 per month, to be fixed by the judge of probate.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 10:35 A.M.

AN ACT

Relating to Marshall County; to provide further for the powers and duties of the county commission; to ratify and confirm certain expenditures heretofore made to the custodian of voting machines; and to provide further for the method of compensation of said custodian by the county commission.

Be It Enacted by the Legislature of Alabama:

Section 1. The chairman of the Marshall County Commission shall have the following powers and duties in addition to those as may be otherwise provided by the laws of this state:

(a) All of the powers, duties, limitations, and responsibilities, with relation to the commission as does the probate judge with relation to county commissions under the general laws of this state, except insofar as such powers, duties, limitations, and responsibilities may be inconsistent with the provisions of this act.

(b) Be the presiding officer of the commission and shall have the same powers as other members of the commission in passing on all questions that may come before it including, but not limited to, the power to vote.

(c) Keep and sign the minutes of the commission and be the custodian thereof which duties, except for the signing, he may delegate to any employee of the commission. Provided however, in the event of any such delegation the performance of such functions shall be under his direct supervision and control.

(d) Supervise and control payments from the funds of the county and sign all warrants and checks drawn on the county depositories and all orders for the disbursement of funds of the county.

(e) Sign all contracts entered into by the county.

(f) Supervise the operation of the office of the commission, keep the books and records of the commission and see to the general custodial, janitorial, maintenance and repair of the courthouses and other buildings of the county except district shops which shall be under the control and supervision of the respective district commissioner and toward this end he shall have the authority and power to hire and fire all necessary employees to carry out the duties herein imposed upon him.

(g) Prepare the tentative and final budget of the county to be presented to the commission for approval.

(h) No debt or obligation of any kind shall be incurred against

the general fund of the county without the approval of the chairman of the commission.

Section 2. On or before July 31 of each year the associate county commissioners, sheriff, tax assessor, tax collector, probate judge, coroner and all other county offices, departments, courts, or agencies, and any other public body or agency desiring appropriations from the county government shall transmit to the chairman of the commission estimates of their expenditures for the coming fiscal year. In the event of any failure to submit the required estimate, the chairman may cause to be prepared such an estimate as in his opinion is reasonable and proper.

Section 3. On or before August 15 of each year the chairman shall prepare an estimate of the total income of the county for the coming fiscal year, listing and classifying such income according to source.

Section 4. Not later than August 31 of each year the chairman shall cause to be prepared a tentative budget. The aggregate sums tentatively budgeted for expenditure during the ensuing fiscal year shall not exceed the estimated revenues for the ensuing year plus the amounts in county funds remaining in the treasury at the close of the year in progress. Said tentative budget shall present in detail proposed expenditures to meet the needs of the county government.

Section 5. County offices, departments, boards and agencies must be given preference in the tentative and final budget so that funding, payments and appropriations to any other public body or agency, except as may be required by law, shall be reduced or eliminated as may be necessary in order that the needs of the county offices be first met. The chairman shall promptly extend invitations to all county officers and the heads of all concerned county departments, boards, commissions, and agencies to ask questions with regard thereto and express an opinion on the tentative budget.

Section 6. (a) Within a reasonable time after the invitation for questions and comments on the tentative budget as provided for in the preceding section, but before September 30, the commission shall adopt and approve a final budget for the ensuing fiscal year which said budget may not thereafter be amended or revised except by a majority vote of the entire commission. Said budget must not provide for a deficit.

(b) The expenditures of no commissioner, office, department, board, institution, commission or agency shall exceed the amount

originally provided for in the final budget unless the same be amended or revised to provide for such expenditure as herein provided. Any officer of the county or department official including the chairman of the county commission, any associate county commissioner, sheriff, coroner, tax assessor, tax collector or probate judge, who willfully violates any of the provisions of this budget shall be personally liable for the amount by which the expenditures of his district, office, department, board, institution, commission or agency exceeds the amount set by the final budget or said budget as it may be amended.

(c) If the final budget shall be amended all elected county officials and the heads of all county departments, boards, or agencies receiving funding from the budget shall be immediately notified by the chairman in writing of such amendment.

(d) The chairman shall regularly review expenditures of all offices, departments, boards, commissions and agencies receiving funds through the budget and shall forthwith notify any department head or other official in charge when it appears that such office, department, board, institution, commission or agency will exceed its budget for the year. If the appropriate official or department head fails to take remedial action the chairman shall not sign further warrants or checks in payments of expenditures of the office, department, board, commission or agency after the total appropriation of the office, department, board, commission or agency has been expended.

(e) During that period of the last year of their term of office which is a part of the fiscal year that shall end after their term of office, the chairman and the associate members of the commission and all other elected county officers shall not spend more than 7/24ths of any amount budgeted to them. Provided however, this provision shall not apply to any bonded indebtedness regularly and lawfully coming due during such period of time or to any warrants or other obligations for which specific revenue of the county shall have been previously pledged. Any chairman or associate member of the commission or elected county officers who shall willfully violate this section shall be personally liable to the county for the amount of such unauthorized expenditure.

Section 7. (a) It shall be unlawful for the commission or any member thereof to purchase or vote to purchase any property or enter into a contract for any work at a purchase price or contract price greater than \$2,000.00 with the costs thereof to become due or to be paid after the expiration of the term of the office of the commissioners serving at the time the purchase is made, vote taken

or contract entered into. Any member of the commission violating this section shall, in addition to any criminal penalty, be personally liable to the county for reimbursement of the full purchase price or contract price involved and this provision is penal in nature and such sum or sums may be collected from each member of the commission violating this section.

(b) Provided however, action may be taken to meet the needs and demands of any emergency situation affecting the roads, bridges, or other facilities of the county and the operation and continuation of governmental services and operations. Provided further, the action taken must have the written recommendation of the county engineer and the affirmative vote of not less than four members of the commission. The term "emergency" as used herein means a sudden or unexpected and unforeseen occurrence or condition and does not mean mere expediency, convenience or the the best interest of. Such emergency must present a strong, pressing and compelling necessity for action to preserve the public health and safety or to insure a continuation of essential governmental functions.

(c) It shall be the duty of the district attorney of the 27th judicial circuit and of any circuit to which Marshall County may later be made a part, to enforce not only the criminal penalties of this section but also to bring suit in the circuit court for the collection of the monetary penalty herein provided for. The civil action shall be brought in the name of Marshall County and shall be for its use and benefit. Provided further, any private citizen may maintain such action and, if successful, may be allowed out of any recovery a reasonable attorney's fee and reimbursement for any other necessary and reasonable expenses in bringing and maintaining the action. The determination of all issues and questions arising out of any attempt to recover the civil penalty shall be determined by a court without a jury.

Section 8. Section 11 of Act No. 633 and Act No. 616, Regular Session 1976, approved August 25, 1976, are hereby repealed.

Section 9. The chairman of the commission may employ a chief clerk who shall devote his entire time to the duties of his office and who shall receive such salary as the former chief clerk of the commission received until the same is changed or modified according to law. The chief clerk shall be subject to the direct control and supervision of the chairman of the commission and may be discharged under the following conditions:

1) The chief clerk may be discharged by a vote of four of the district commissioners.

2) The chief clerk may be discharged at any time by the chairman who hired the chief clerk during that chairman's tenure in office as chairman.

3) The chief clerk may be discharged by a chairman other than the chairman who hired the chief clerk by a vote of two of the district commissioners in addition to the chairman.

The chief clerk shall perform and shall carry out such functions and perform such duties as the chairman may from time to time direct. The chief clerk shall at all times be available to all members of the commission to assist them in the performance of their duties on the commission. The chief clerk shall make available to all members of the commission any information desired by a member of the commission in carrying out the duties of his office.

Section 10. The commissioners may be reimbursed for the actual costs of meals incurred in attending meetings held for the purpose of discussing or transacting county affairs and the commission may pay for the actual cost of meals of others attending meetings at the request of the commission for the purpose of discussing or transacting county affairs. Provided however, the expenditures authorized herein must be made pursuant to a budget adopted as hereinbefore provided.

Section 11. Any person who willfully violates any provisions of this act in addition to any civil liability or penalty shall on conviction be fined not more than \$5,000.00 or be imprisoned in the county jail for not more than 12 months, or both. On trial by jury the punishment shall be set by the court.

Section 12. Any salary heretofore paid by the county commission to the custodian of voting machines during the period October 1, 1975 to October 1, 1978 is hereby ratified and confirmed.

Section 13. The Marshall County Salary Commission, created by Act No. 909, H. 1899, Regular Session 1975, (Acts 1975, p. 1806), is hereby authorized and required to determine from time to time the salary of the custodian of voting machines in said county. Such salary shall be paid from the county treasury in the same form and manner as that paid to other county employees.

Section 14. The county commission shall in addition have authority to purchase used equipment from other governmental agencies upon approval of the county engineer.

Section 15. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part or parts which remain.

Section 16. This act shall be considered cumulative but all laws or parts of laws in conflict herewith are repealed.

Section 17. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 1:45 P.M.

Act No. 79-467

H. 256—Bennett, Wyatt, Amari

AN ACT

To provide for a procedure of payroll deductions for certain contributions made by state officers and employees.

Be It Enacted by the Legislature of Alabama:

Section 1. As used in this act, unless the context otherwise requires:

(a) "Charitable organizations" for the purposes of this act, means all local United Way Agencies and the following national health agencies:

- Alabama Association for Retarded Citizens
- American Cancer Society
- American Diabetes Association
- American Heart Association
- Arthritis Foundation
- Cystic Fibrosis Foundation
- Hemophilia of Alabama
- Muscular Dystrophy Association
- National Association for Sickle Cell Disease
- National Foundation - March of Dimes
- National Multiple Sclerosis Society
- National Retinitis Pigmentosa Foundation
- United Cerebral Palsy Association

(b) "Enrollment period" means the time during which the charitable organization conducts an annual consolidated effort to secure funds.

Section 2. The payroll clerk or other responsible person in charge of payroll may deduct from the salary or wages of a state

officer or employee an amount specified by the officer or employee for payment to a charitable organization if:

(a) The request for the payroll deduction is made in writing during the enrollment period for the charitable organization; and

(b) The deduction shall not continue in effect for a period of time exceeding one year unless a new written request is filed according to the requirements of this section; and

(c) The pay period during which the deduction is made, the frequency, and the amount of the deduction are compatible with the payroll system.

Section 3. Moneys deducted pursuant to this section shall be paid monthly to the appropriate charitable organization. The deduction may be made notwithstanding that the compensation actually paid to the officer or employee is reduced to an amount below the minimum prescribed by law. Payment to an officer or employee of compensation less the deduction shall constitute a full and complete discharge of claims and demands for services rendered by the employee during the period covered by the payment. The request for the deduction may be withdrawn at any time by filing a written notification of withdrawal with the responsible official in charge of the payroll system.

Section 4. Nothing in this act shall be construed to allow deductions to any organization other than those charities listed herein.

Section 5. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 6. All laws or parts of law which conflict with this act are hereby repealed.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 1:45 P.M.

Act No. 79-468

S. 109—Goodwin and White

AN ACT

To provide for definition of terms as used in this Act; to provide a statement of Legislative intent; to provide a comprehensive system of time limitations for the

commencement and maintenance of product liability actions; to provide that all product liability actions must be commenced within one (1) year from the time the personal injury, death or property damage occurs; to provide that where the personal injury is a result of insidious disease, the action must be commenced within one (1) year of the date such injury was or in the exercise of reasonable diligence should have been discovered; to provide that a product liability action must be brought, in any event, within ten (10) years of the date the product was put to use; to provide that time limitations provided herein may be waived by express written agreement; to provide that product liability actions arising from the breach of a duty to take or not to take certain actions with respect to a product, coinciding with the failure by the defendant to comply with a government requirement to take or not to take such action, may be brought within one (1) year of the time the personal injury, death or property damage from such failure occurs; to provide that such actions resulting from insidious disease may be brought within one (1) year from the date such personal injury was or in the exercise of reasonable diligence should have been discovered; to provide that such actions must be brought in any event within ten (10) years from the date of the imposition of the governmental requirements; to provide that the provisions of this Act are inseparable and nonseverable; to provide that this Act shall not be retroactive; and to provide a manner in which this bill becomes law.

Be It Enacted by the Legislature of Alabama:

Section 1. Statement of Legislative Intent. It is the intent of the Legislature that a comprehensive system consisting of the time for commencement of actions, for discoverability of actions based upon insidious disease, and the repose of actions shall be instituted in this State. The Legislature finds that in order to assure the rights of all persons, and to provide for the fair, orderly and efficient administration of product liability actions in the Courts of this State, a complete and unified approach to the time in which product liability actions may be brought and maintained is required. The Legislature finds that product liability actions and litigation have increased substantially, and the cost of such litigation has risen in recent years. The Legislature further finds that these increases are having an impact upon consumer prices, and upon the availability, cost and use of product liability insurance, thus, affecting the availability of compensation for injured consumers. Therefore, it is the intent of the Legislature to provide a comprehensive time framework for the commencement and maintenance of all product liability actions brought in this State.

Section 6. Definitions:

As used in this act:

(a) An original seller means any person, firm, corporation, association, partnership or other legal or business entity, which in the course of business or as an incident to business, sells or otherwise distributes a manufactured product (1) prior to or (2) at the time the manufactured product is first put to use by any person or business entity who did not acquire the manufactured product

for either resale or other distribution in its unused condition or for incorporation as a component part in a manufactured product which is to be sold or otherwise distributed in its unused condition.

(b) A product liability action means any action brought by a natural person for personal injury, death or property damage caused by the manufacture, construction, design, formula, preparation, assembly, installation, testing, warnings, instructions, marketing, packaging, or labeling of a manufactured product when such action is based upon (1) negligence, (2) innocent or negligent misrepresentation, (3) the manufacturer's liability doctrine, (4) the Alabama Extended Manufacturer's Liability Doctrine, as it exists or is hereafter construed or modified, (5) breach of any implied warranty, or (6) breach of any oral express warranty and no other. A product liability action does not include an action for contribution or indemnity.

(c) The definitions used herein are to be used for purposes of this Act and are not to be construed to expand or limit the status of the common or statutory law except as expressly modified by the provisions of this Act.

Section 3. Limitation of product liability actions. All product liability actions against an original seller must be commenced within the following time limits and not otherwise:

(a) (1) Except as specifically provided in subsections (a) (3), (b), and (d) of this section, within one (1) year of the time the personal injury, death, or property damage occurs; and

(2) Except as specifically provided in subsections (a) (3), (b), and (d) of this section, each element of a product liability action shall be deemed to accrue at the time the personal injury, death or property damage occurs; and

(3) Provided that where the personal injury, including personal injury resulting in death, or property damage (i) either is latent or by its nature is not discoverable in the exercise of reasonable diligence at the time of its occurrence, and (ii) is the result of ingestion of or exposure to some toxic or harmful or injury-producing substance, element or particle, including radiation, over a period of time as opposed to resulting from a sudden and fortuitous trauma, then, in that event, the product liability action claiming damages for such personal injury, or property damage must be commenced within one (1) year from the date such personal injury or property damage is or in the exercise of reasonable diligence should have been discovered by the plaintiff or the plaintiff's decedent, and in such cases each of the elements of the

product liability action shall be deemed to accrue at the time the personal injury is or in the exercise of reasonable diligence should have been discovered by the plaintiff or the plaintiff's decedent; and

(b) Notwithstanding the provisions of subsections (a) (1), (a) (2), and (a) (3) of this section, a product liability action against an original seller must be brought within ten (10) years after the manufactured product is first put to use by any person or business entity who did not acquire the manufactured product for either resale or other distribution in its unused condition or for incorporation as a component part in a manufactured product which is to be sold or otherwise distributed in its unused condition.

(c) It is further provided that the original seller may by express written agreement only waive or extend the period of time provided for in subsection (b) of this section; and

(d) (1) Notwithstanding the provisions of subsection (b) of this section, if a plaintiff or plaintiff's decedent is entitled to maintain a product liability action because of the failure of an original seller to alter, repair, recall, inspect or issue warnings or instructions about the manufactured product, or otherwise to take any action or precautions with regard to the safety of the manufactured product for the benefit of users or consumers after the manufactured product was sold or otherwise distributed by an original seller, and, if any Federal or State governmental agency shall impose a requirement so to alter, repair, recall, inspect, or issue warnings or instructions about the manufactured product or otherwise to take any actions or precautions with regard to the safety of the manufactured product for the benefit of users or consumers after the manufactured product was sold or otherwise distributed by an original seller, then, if these two events have occurred, a product liability action for damages on account of such failure for personal injury, death or property damage must be commenced within one (1) year of the time the personal injury, death or property damage resulting from such failure occurs;

(d) (2) Provided that in product liability actions predicated upon the failure to act and the governmental action, set forth in (d) (1) above, where the personal injury, including personal injury resulting in death, or property damage (i) either is latent or by its nature is not discoverable in the exercise of reasonable diligence at the time of its occurrence, and (ii) is the result of the ingestion of or exposure to some toxic or harmful or injury-producing substance, element or particle, including radiation, over a period of time as opposed to resulting from a sudden and fortuitous trauma, then in that event, the product liability action claiming damages for such

personal injury or property damage must be commenced within one (1) year from the date such personal injury or property damage is or in the exercise of reasonable diligence should have been discovered by the plaintiff or the plaintiff's decedent and in such cases each of the elements of the product liability action shall be deemed to accrue at the time the personal injury or property damage is or in the exercise of reasonable diligence should have been discovered by the plaintiff or plaintiff's decedent; and

(d) (3) Notwithstanding the provisions of subsections (d) (1) and (d) (2) of this section, a product liability action against an original seller must be brought within ten (10) years after the date of the imposition of such requirement by such governmental agency.

Section 4. All laws or parts of laws which conflict with this Act are repealed.

Section 5. It is expressly provided that each section, clause, provision or portion of this Act shall be construed as inseparable and nonseverable from all others, and in the event that any section, clause, provision or portion of this Act shall be held invalid or unconstitutional by any court of competent jurisdiction, the entire Act and each section, clause, provision or portion thereof shall be inoperative and have no effect.

Section 6. This Act and each section thereof shall apply only to product liability actions, wherein each element accrues after the effective date of this Act, and no provision of this Act shall have retroactive application.

Section 7. This Act, except as otherwise provided in this section, shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law; provided that Section 3 (a) (3) and Section 3 (d) (2) shall become effective one (1) year and one (1) day after its passage and approval by the Governor or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 1:45 P.M.

Act No. 79-469

H. 553—Willis, Campbell, Crow

AN ACT

Relating to all cities having populations of not less than 6,000 nor more than 11,999 inhabitants according to the 1970 or any subsequent federal decennial census

which have held an advisory referendum election in which the electors have expressed a preference for the election of the city board of education; to provide for the election and tenure of members of the city board of education of any such cities.

Be It Enacted by the Legislature of Alabama:

Section 1. The board of education of all cities having populations of not less than 6,000 nor more than 11,999 according to the 1970 or any subsequent federal decennial census which have held an advisory referendum election prior to the effective date of this act in which the electors have expressed a preference for the election of the city board of education shall consist of five members who shall be elected by the qualified electors of the city at large at the general election immediately before the expiration of the term of office of any current member or members of the board. The member shall continue to be elected for staggered terms of five years upon the expiration of the term of any current member. The places on the board shall be numbered one through five as the terms of any current members expire, and each candidate, upon qualifying, shall designate the place the candidate is seeking.

Section 2. The members of the city board of education in which this act applies shall hold office until their successors are qualified and elected. In the event of a vacancy in the membership of any such city board of education, by resignation or otherwise, the fact shall be reported to the city council by the board and the council shall elect a person to fill such vacancy for the unexpired term.

Section 3. The city board of education in any city in which this act applies shall be vested with the same authority, powers and duties as provided for city boards of education by law.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 1:45 P.M.

Act No. 79-470

S. 54—White, Kirkland, Mitchem,
Teague, Gullledge, Robertson,
deGraffenried, Britnell,
Denton, Keener, Holmes,
Callahan, Weeks,

Higginbotham, Miller, Little,
Lemaster, Martin, Clemon,
St. John, Cook, Hall, Figures,
Vacca, Bailey, Proctor,
Smith and McDonald

AN ACT

To authorize the legislature of the State of Alabama to control the usage of certain portions of streets, parking lots and grounds in or near the state capitol complex in the City of Montgomery; and to direct the Chief of Services to work in cooperation with the legislature as herein provided.

Be It Enacted by the Legislature of Alabama:

Section 1. The legislature of the State of Alabama is hereby authorized to control the usage of a certain portion of those streets adjacent to the state capitol complex in the City of Montgomery and the grounds of the state capitol building, viz: That portion of King Street and Pelham Street, lying between Union and Ripley Streets, (over which the city has relinquished control), and the parking lot located across Union Street to the rear of the capitol building between the Administrative Building and Highway Building and bounded by the Streets of Union, Ripley, Pelham and King and the driveway and parking spaces on the grounds surrounding the capitol itself. The legislature shall be authorized to exercise control over the usage of the said areas through the Joint Parking Committee created by Act No. 8, Organizational Session 1975, or its successor, or by subsequent legislative action; and the Chief of Services of the Division of Services shall work in cooperation with the legislature regarding any action taken by the legislature as hereby authorized.

Section 2. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this Act are hereby repealed, including Act No. 271, H.J.R. 263 of the 1976 Regular Session.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 1:45 P.M.

Act No. 79-471

S. 316—St. John and Robertson

AN ACT

To amend Sections 125, 605, 1235, 1245, 2311, 2316, 2610, 2611, 2612, 3203, 3210, 3242, 3243, 4006, 4211, 4540, 4606, 4636, 4637, 4640, 4805, 5005, 5010, 5530, 6106, 6110, and 6115 of Act No. 607, S. 33, Regular Session 1977 (Acts 1977, p. 812), as amended, entitled "An Act To provide an entirely new criminal code for the State of Alabama; defining offenses, fixing punishment; repealing numerous specific code sections and statutes that conflict herewith as well as all other laws that conflict with this act," and to repeal Section 112 of said Act No. 607.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 125, 605, 1235, 1245, 2311, 2316, 2610, 2611, 2612, 3203, 3210, 3242, 3243, 4006, 4211, 4540, 4606, 4636, 4637, 4640, 4805, 5005, 5010, 5530, 6106, 6110, and 6115 of Act No. 607, S. 33, Regular Session 1977 (Acts 1977, p. 812), as amended, are amended to read as follows:

"Sec. 125. Other Limitations on Applicability, Method of Prosecution when Conduct Constitutes More Than One Offense.

"(a) (1) Except as otherwise provided herein, the procedure governing the accusation, prosecution, conviction, and punishment of offenders and offenses is not regulated by this act.

"(2) This act does not bar, suspend, or otherwise affect any right or liability to damages, penalty, forfeiture or other remedy authorized by law to be recovered or enforced in a civil action, regardless of whether the conduct involved in the proceeding constitutes an offense defined in this act.

"(b) When the same conduct of a defendant may establish the commission of more than one offense, the defendant may be prosecuted for each such offense. He may not, however, be convicted of more than one offense if:

"(1) One offense is included in the other, as defined in Section 126; or

"(2) one offense consists only of a conspiracy or other form of preparation to commit the other; or

"(3) inconsistent findings of fact are required to establish the commission of the offenses; or

"(4) the offenses differ only in that one is defined to prohibit a designated kind of conduct generally and the other to prohibit a specific instance of such conduct.

"Sec. 605. Justification: Execution of Public Duty.

"Unless inconsistent with other provisions of this chapter, or with some other provision of law, conduct which would otherwise constitute an offense is justifiable and not criminal when it is required or authorized by law or by a judicial decree or is performed by a public servant in the reasonable exercise of his official powers, duties or functions.

"Sec. 1235. Penalties for Habitual Felony Offenders.

"In all cases when it is shown that a criminal defendant has been previously convicted of any felony and after such conviction has committed another felony, he must be punished as follows:

"(1) On conviction of a Class C felony, he must be punished for a Class B felony;

"(2) On conviction of a Class B felony, he must be punished for a Class A felony; and

"(3) On conviction of a Class A felony, he must be punished by imprisonment for life or for any term of not more than 99 years but not less than 15 years.

"Sec. 1245. Fines for Misdemeanors and Violations.

"(1) A sentence to pay a fine for a misdemeanor shall be for a definite amount, fixed by the court, within the following limitations:

"(a) For a Class A misdemeanor, not more than \$2,000.

"(b) For a Class B misdemeanor, not more than \$1,000.

"(c) For a Class C misdemeanor, not more than \$500.

"(d) Any amount not exceeding double the pecuniary gain to the defendant or loss to the victim caused by the commission of the offense.

"(2) A sentence to pay a fine for a violation shall be for a definite amount, fixed by the court, not to exceed \$200.00, or any amount not exceeding double the pecuniary gain to the defendant or loss to the victim caused by the commission of the offense.

"(3) As used in this section, 'gain' means the amount of money or the value of the property derived from the commission of the crime, less the amount of money or the value of property returned to the victim of the crime or seized or surrendered to lawful authority prior to the time sentence is imposed. 'Value' shall be determined by the standards established in § 3280(14).

"(4) The court may conduct a hearing upon the issue of

defendant's gain or the victim's loss from the crime according to procedures established by rule of court.

"Sec. 2311. Rape in the Second Degree.

"(1) A male commits the crime of rape in the second degree if:

"(a) Being 16 years old or older, he engages in sexual intercourse with a female less than 16 and more than 12 years old, provided, however, the actor is at least two years older than the female.

"(b) He engages in sexual intercourse with a female who is incapable of consent by reason of being mentally defective.

"(2) Rape in the second degree is a Class C felony.

"Sec. 2316. Sodomy in the Second Degree.

"(1) A person commits the crime of sodomy in the second degree if:

"(a) He, being 16 years old or older, engages in deviate sexual intercourse with another person less than 16 and more than 12 years old.

"(b) He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being mentally defective.

"(2) Sodomy in the second degree is a Class C felony.

"Sec. 2610. Burglary in the First Degree.

"(1) A person commits the crime of burglarly in the first degree if he knowingly and unlawfully enters or remains unlawfully in a dwelling with intent to commit a crime therein, and, if, in effecting entry or while in the dwelling or in immediate flight therefrom, he or another participant in the crime:

"(a) Is armed with explosives or a deadly weapon; or

"(b) Causes physical injury to any person who is not a participant in the crime; or

"(c) Uses or threatens the immediate use of a dangerous instrument.

"(2) Burglary in the first degree is a Class A felony.

"Sec. 2611. Burglary in the second degree.

"(a) A person commits the crime of burglary in the second degree if he knowingly enters or remains unlawfully in a building with intent to commit theft or a felony therein and, if in effecting

entry or while in the building or in immediate flight therefrom, he or another participant in the crime:

“(1) Is armed with explosives or a deadly weapon; or

“(2) Causes physical injury to any person who is not a participant in the crime; or

“(3) Uses or threatens the immediate use of a dangerous instrument.

“(b) In the alternative to subsection (a) of this section, a person commits the crime of burglary in the second degree if he unlawfully enters a lawfully occupied dwelling-house with intent to commit a theft or a felony therein.

“(c) Burglary in the second degree is a Class B felony.

“Sec. 2612. Burglary in the Third Degree.

“(1) A person commits the crime of burglary in the third degree if he knowingly enters or remains unlawfully in a building with intent to commit a crime therein.

“(2) Burglary in the third degree is a Class C felony.

“Sec. 3203. Theft of property in the second degree.

“(a) The theft of property which exceeds \$100.00 in value but does not exceed \$1,000.00 in value, and which is not taken from the person of another, constitutes theft of property in the second degree.

“(b) Theft of property in the second degree is a Class C felony.

“(c) The theft of a credit card or a debit card, regardless of its value, constitutes theft of property in the second degree.

“(d) The theft of a firearm, rifle or shotgun, regardless of its value, constitutes theft of property in the second degree.

“(e) The theft of property which exceeds \$25.00 in value, and which is taken from or in a building where said property is sold or stored, constitutes theft of property in the second degree.

“(f) The theft of any substance controlled by the Alabama Controlled Substances Act of 1971, or any amendments thereto, regardless of value, constitutes theft of property in the second degree.

“(g) The theft of any livestock which includes cattle, swine, horses, mules, asses, or sheep, regardless of their value, constitutes theft of property in the second degree.

“Sec. 3210. Theft of Services: Definition.

“(1) A person commits the crime of theft of services if:

“(a) He intentionally obtains services known by him to be available only for compensation by deception, threat, false token or other means to avoid payment for the services; or

“(b) Having control over the disposition of services of others to which he is not entitled, he knowingly diverts those services to his own benefit or to the benefit of another not entitled thereto.

“(2) ‘Services’ includes but is not necessarily limited to labor, professional services, transportation, telephone or other public services, accommodation in motels, hotels, restaurants or elsewhere, admission to exhibitions, computer services, and the supplying of equipment for use.

“(3) Where compensation for services is ordinarily paid immediately upon the rendering of them, as in the case of motels, hotels, restaurants and the like, absconding without payment or bona fide offer to pay is prima facie evidence under subsection (1) that the services were obtained by deception.

“(4) If services are obtained under subparagraph (1) (a) from a hotel, motel, inn, restaurant or cafe, no prosecution can be commenced after 120 days from the time of the offense.

“(5) Theft of services is a Class A misdemeanor.

“Sec. 3242. Receiving Stolen Property in the Second Degree.

“(1) Receiving stolen property:

“(a) Which exceeds \$100 in value but does not exceed \$1,000 in value; or

“(b) Of any value under the circumstances described in § 3240 (2) (b); constitutes receiving stolen property in the second degree.

“(2) Receiving stolen property in the second degree is a Class C felony.

“Sec. 3243. Receiving Stolen Property in the Third Degree.

“(1) Receiving stolen property which does not exceed \$100 in value constitutes receiving stolen property in the third degree.

“(2) Receiving stolen property in the third degree is a Class A misdemeanor.

“Sec. 4006. Forgery in the Second Degree.

“(1) A person who commits the crime of forgery in the second degree if, with intent to defraud, he falsely makes, completes or alters a written instrument which is or purports to be, or which is calculated to become or to represent if completed:

“(a) A deed, will, codicil, contract, assignment, or a check, draft, note or other commercial instrument which does or may evidence, create, transfer, terminate or otherwise affect a legal right, interest, obligation or status; or

“(b) A public record, or an instrument filed or required or authorized by law to be filed in a public office or with a public employee; or

“(c) A written instrument officially issued or created by a public office, public employees or government agency.

“(2) Forgery in the second degree is a Class C felony.

“Sec. 4211. Sports Bribery.

“(1) A person commits the crime of sports bribery if he:

“(a) Confers, or offers or agrees to confer any benefit upon a sports participant with intent to influence him not to give his best efforts in a sports contest; or

“(b) Confers, or offers or agrees to confer any benefit upon a sports official in return for an agreement from him to perform his duties improperly.

“(2) Sports bribery is a Class A misdemeanor.

“Sec. 4540. False Reporting to Law Enforcement Authorities.

“(1) A person commits the crime of false reporting to law enforcement authorities if he knowingly makes a false report or causes the transmission of a false report to law enforcement authorities of a crime or relating to a crime.

“(2) False reporting to law enforcement authorities is a Class A misdemeanor.

“Sec. 4606. Escape in the First Degree.

“(1) A person commits the crime of escape in the first degree if:

“(a) He employs physical force, a threat of physical force, a deadly weapon or a dangerous instrument in escaping or attempting to escape from custody; or

“(b) Having been convicted of a felony, he escapes or attempts to escape from custody imposed pursuant to that conviction; or

“(c) He escapes or attempts to escape from a penal facility.

“(2) Escape in the first degree is a Class B felony.

“Sec. 4636. Hindering Prosecution in the First Degree.

“(1) A person commits the crime of hindering prosecution in the first degree if with the intent to hinder the apprehension, prosecution, conviction or punishment of another for conduct constituting a murder or a Class A or B felony, he renders criminal assistance to such person.

“(2) Hindering prosecution in the first degree is a Class C felony.

“Sec. 4637. Hindering Prosecution in the Second Degree.

“(1) A person commits the crime of hindering prosecution in the second degree if with the intent to hinder the apprehension, prosecution, conviction or punishment of another for conduct constituting a Class C felony or a Class A misdemeanor, he renders criminal assistance to such person.

“(2) Hindering prosecution in the second degree is a Class A misdemeanor.

“Sec. 4640. Hindering Apprehension of Escapee.

“(1) A person commits the crime of hindering the apprehension of an escapee if, with the intent to hinder the apprehension of a person known to have escaped from a detention facility, he renders criminal assistance to such person.

“(2) Hindering apprehension of an escapee is a Class A misdemeanor.

“Sec. 5005. Bribing a Witness.

“(1) A person commits the crime of bribing a witness if he offers, confers or agrees to confer any thing of value upon a witness or a person he believes will be called as a witness in any official proceeding with intent to:

“(a) Corruptly influence the testimony of that person;

“(b) Induce that person to avoid legal process summoning him to testify; or

“(c) Induce that person to absent himself from an official proceeding to which he has been legally summoned.

"(2) This section does not apply to the payment of additional compensation to an expert witness over and above the amount otherwise prescribed by law to be paid a witness.

"(3) Bribing a witness is a Class C felony.

"Sec. 5010. Bribe Receiving by a Witness.

"(1) A witness or a person believing he will be called as a witness in any official proceeding commits the crime of bribe receiving by a witness if he solicits, accepts or agrees to accept any thing of value upon an agreement or understanding that:

"(a) His testimony will thereby be corruptly influenced;

"(b) He will attempt to avoid legal process summoning him to testify; or

"(c) He will attempt to absent himself from an official proceeding to which he has been legally summoned.

"(2) This section does not apply to the payment of additional compensation to an expert witness over and above the amount otherwise prescribed by law to be paid to a witness.

"(3) Bribe receiving by a witness is a Class C felony.

"Sec. 5530. Harassment.

"(1) A person commits the crime of harassment if, with intent to harass, annoy or alarm another person, he:

"(a) Strikes, shoves, kicks or otherwise touches a person or subjects him to physical contact; or

"(b) Directs abusive or obscene language or makes an obscene gesture towards another person.

"(2) Harassment is a Class C misdemeanor.

"Section 6106. Promoting Gambling.

"(1) A person commits the crime of promoting gambling if he knowingly advances or profits from unlawful gambling activity otherwise than as a player.

"(2) Promoting gambling is a Class A misdemeanor.

"Section 6110. Conspiracy to Promote Gambling.

"(1) A person commits the crime of conspiracy to promote gambling if he conspires to advance or profit from gambling activity otherwise than as a player.

“(2) ‘Conspire’ means to engage in activity constituting a criminal conspiracy as defined in Section 1015.

“(3) Conspiracy to promote gambling is a Class A misdemeanor.

“Section 6115. Possession of Gambling Records in the First Degree.

“(1) A person commits the crime of possession of gambling records in the first degree if with knowledge of the contents thereof, he possesses any writing, paper, instrument or article:

“(a) Of a kind commonly used in the operation or promotion of a bookmaking scheme or enterprise, and constitution, reflecting or representing more than five bets, or more than \$500; or

“(b) Of a kind commonly used in the operation, promotion or playing of a lottery or mutuel scheme or enterprise, and constituting, reflecting or representing more than five plays or chances therein.

“(2) Possession of gambling records in the first degree is a Class A misdemeanor.”

Section 2. Section 112 of said Act No. 607, S. 33, Regular Session 1977, is repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 1:45 P.M.

Act No. 79-472

S. 559—McDonald

AN ACT

Relating to controlled substances; establishing the Controlled Substances Therapeutic Research Act; providing for the limited distribution of cannabis (also known as “marijuana”), and certain of its derivatives, to qualified patients for defined therapeutic and research purposes; prescribing the qualifications and standards and the procedure for implementation; authorizing the state board of medical examiners to create a review committee; prescribing the membership of such committee; requiring certain reporting and accountability from the committee, the physician and the state board of medical examiners; restricting the distribution and the use of the drug to alleviate the nausea and other ill-effects of cancer chemotherapy, and, additionally, the ill-effects of glaucoma under strictly controlled circumstances; further defining controlled substances, Schedules I and

II; providing for cooperation with and authorization to contract with federal agencies for the implementation of the program; and prescribing penalties for violating the provisions of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be known as the "Controlled Substances Therapeutic Research Act."

Section 2. The legislature finds that recent research has shown that the use of cannabis may alleviate nausea and ill-effects of cancer chemotherapy, and may alleviate the ill-effects of glaucoma. The legislature further finds that there is a need for further research and experimentation with regard to the use of cannabis under strictly controlled circumstances. It is for these purposes that the Controlled Substances Therapeutic Research Act is hereby established.

Section 3. As used in this act the following words, unless the context clearly indicates the contrary, shall have the following meanings:

(a) "Controlled substance" means the same as is defined in Section 20-2-2(5) of the Code of Alabama 1975, as amended;

(b) "Cannabis" means the same as those substances defined in Section 20-2-2(15) of the Code of Alabama, 1975, as amended, and particularly those substances defined as tetrahydrocannabinols, or a chemical derivative thereof;

(c) "Practitioner" means a physician licensed to practice medicine in this state and particularly as herein enumerated.

Section 4. There is hereby established by the state board of medical examiners the "controlled substances therapeutic research program." The board shall administer the program by a review committee. The board shall promulgate such rules and regulations as are necessary for the proper administration and implementation of the program. Such promulgations shall be formulated to consider those pertinent rules and regulations promulgated by the federal drug enforcement agency, food and drug administration and the national institute on drug abuse.

Section 5. Except as herein otherwise provided, the controlled substances therapeutic research program shall be limited to cancer chemotherapy patients and glaucoma patients, who are certified to the review committee by an authorized practitioner, as in such medical condition necessary for the treatment of glaucoma, or the side effects of chemotherapy in cancer patients; such authorization shall be upon such terms and

conditions as may be consistent with the public health and safety. To the extent of the applicable authorization, persons are exempt from prosecution in this state for possession, production, manufacture or delivery of cannabis.

Section 6. The review committee shall consist of: a) one physician licensed to practice medicine in this state and certified by the American board of ophthalmology; b) one physician licensed to practice medicine in this state, certified by the American Board of Internal Medicine and also certified in the subspecialty of medical oncology; c) one physician licensed to practice medicine in this state, certified in the specialty of pediatrics and also certified in the subspecialty of pediatrics oncology; d) one physician licensed to practice medicine in this state, certified in the specialty of gynecology and also certified in the subspecialty of gynecological oncology; e) one physician licensed to practice medicine in this state, certified in the specialty of radiology and also certified in the subspecialty of radiation oncology.

f) The director of the Comprehensive Cancer Center of the University of Alabama in Birmingham.

Section 7. Only physicians in the practice of the medicine, as prescribed in Section 6 of this act, and who also are certified in the subspecialty of oncology and specifically certified by the state board of medical examiners to dispense cannabis under the provisions of this act, shall be practitioners hereunder. Each practitioner shall make application for recertification every three years.

Section 8. The state board of medical examiners shall apply to contract with the National Institute on Drug Abuse for receipt of cannabis pursuant to the regulations promulgated by the National Institute on Drug Abuse, the Food and Drug Administration and the Drug Enforcement Administration. The board shall formulate and promulgate such guidelines as are necessary for dispensing cannabis consistent with the public health and safety and under strictly controlled circumstances. The board further shall establish the rules and regulations requiring accurate reporting and accountability by each practitioner to the board and any federal agency as required by law.

Section 9. Each year, on or before the fifth day of the regular session of the legislature the state board of medical examiners, in conjunction with the board's review committee, shall report their findings and recommendations to the Governor, the President of the Senate and the Speaker of the House of Representatives, regarding the effectiveness of the controlled substances.

Section 10. The enumeration of cannabis, tetrahydrocannabinols, or a chemical derivative thereof as a

Schedule I or II controlled substance under Title 20, Article 2 of the Code of Alabama 1975, as amended, does not apply to the use of such drugs or chemical derivatives thereof pursuant to the provisions of this act.

Section 11. Any person or any practitioner who prescribes or dispenses cannabis or any of its derivatives for reasons other than outlined in the act upon conviction thereof shall be guilty of a felony and shall be punished as provided in Section 20-2-70 of the Code of Alabama 1975.

Section 12. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 13. All laws or parts of laws which conflict with this act are hereby repealed.

Section 14. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 1:45 P.M.

Act No. 79-473

S. 639—Lemaster

AN ACT

Relating to Jackson County; to provide for the distribution of funds received by the county from payments in lieu of taxes made by the Tennessee Valley Authority.

Be It Enacted by the Legislature of Alabama:

Section 1. Any payments coming into the treasury of Jackson County that are derived, directly or indirectly, from payments by the Tennessee Valley Authority in lieu of the payment of ad valorem taxes shall be distributed as follows:

(A) Forty percent of such payments shall be distributed to the public school systems within the county on a per pupil basis.

(B) Thirty percent of such payments shall be distributed to the incorporated municipalities within the county on a population basis.

(C) Thirty percent of such payments shall be placed in the general fund in the county treasury and may be used for any of the lawful purposes of Jackson County.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 1:45 P.M.

Act No. 79-474

S. 625—Britnell

AN ACT

Relating to Franklin County; providing further for the distribution of the payments made in lieu of ad valorem taxes by the Tennessee Valley Authority as authorized by Section 40-28-2, Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. In Franklin County, the payments made to the county commission as authorized in Section 40-28-2, Code of Alabama 1975, shall be distributed by the said county commission as follows: (1) Each local government will first receive the same amount of funds which it received from the Alcoholic Beverage Control Board during the fiscal year ending September 30, 1979, provided however, that in any fiscal year after the fiscal year ending September 30, 1979, that the total Tennessee Valley Authority payments in lieu of taxes distributed to Franklin County by the state is in an amount less than the amount that all governments in Franklin County received from the Alcoholic Beverage Control Board in the fiscal year ending September 30, 1979, each local government shall receive an amount of Tennessee Valley Authority funds which shall be in the same proportion that all levels of government in Franklin County received in Alcoholic Beverage Control Board funds in the fiscal year ending September 30, 1979.

(2) Any funds distributed to Franklin County by the State of Alabama as payments in lieu of taxes from the Tennessee Valley Authority in any fiscal year which are in excess of the amount which all levels of government in Franklin County received from the Alcoholic Beverage Control Board in the fiscal year ending September 30, 1979 shall be distributed as follows: 40% of such payments shall be disbursed on the same formula as school funds according to the state department of education's "Current Expense Ratio" are apportioned to the Franklin County Board of Education and the Russellville City Board of Education; 60% of said payments shall be distributed to the county general fund and on a pro rata basis to the general funds of the City of Russellville, the City of Phil

Campbell, the City of Red Bay, the City of Vina, and the City of Hodges, with each city receiving the amount that its population, according to the latest federal census, bears to the entire population of the county, and the general fund of the Franklin County Commission receiving the amount that the population of the county outside the cities bears to the entire population of the county, according to the latest federal census.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 1:45 P.M.

Act No. 79-475

H. 454—Parker, McMillan

AN ACT

To amend Section 9-17-1, Subsection (3), Code of Ala. 1975, so as to provide for a redefinition of the word "oil" with reference to pool rather than well.

Be It Enacted by the Legislature of Alabama:

Section 1. That Section 9-17-1, Subsection (3), Code of Ala. 1975, be, and the same is hereby amended to read as follows:

"(3) Crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of a condensation of gas after it leaves the pool."

Section 2. If any clause, sentence, paragraph, provision, part or section of this Act shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, provision, part, or section thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor or by its otherwise becoming a law.

Approved July 30, 1979

Time: 1:45 P.M.

AN ACT

To provide for a definition of terms as used in this Act; to provide a statement of Legislative intent; to provide that in all product liability actions, evidence that a plaintiff's medical or hospital expenses claimed as damages have been or will be paid or reimbursed by medical or hospital insurance or pursuant to the medical and hospital payment provisions of the law governing workmen's compensation shall be admissible in evidence; to provide that a plaintiff may introduce evidence of the cost of obtaining reimbursement or payment of such medical or hospital expenses; to provide that a plaintiff may recover as damages a reasonably related portion of the cost of obtaining such medical or hospital payments; to provide that where a plaintiff is obligated to repay such medical or hospital expenses no evidence of payment or reimbursement not otherwise admissible shall be admissible; to provide for the repeal of inconsistent laws or parts of law; to provide for the severability of this Act; and to provide the manner in which this bill becomes law.

Be It Enacted by the Legislature of Alabama:

Section 1. Statement of Legislative intent. The Legislature finds that product liability litigation has increased substantially and the cost of such litigation has risen in recent years. The Legislature further finds that these increases have an impact upon the price and availability of products. It is the belief of the Legislature that there are special reasons for modifying the collateral source rule in this State as it applies to product liability actions. The Legislature finds that the recovery by plaintiffs of medical and hospital expenses as damages where plaintiffs are reimbursed for the same medical and hospital expenses from other sources contributes to the increase in the cost of product liability litigation. It is the intent of the Legislature that plaintiffs be compensated fully for any medical or hospital expenses incurred as a result of injuries sustained from a breach of product liability laws, but that plaintiffs not receive compensation more than once for the same medical and hospital expenses.

Section 2. Definitions:

(a) A product liability action means any action brought by a natural person for personal injury, death or property damage caused by the manufacture, construction, design, formula, preparation, assembly, installation, testing, warnings, instructions, marketing, packaging, or labeling of a manufactured product when such action is based upon (1) negligence, (2) innocent or negligent misrepresentation, (3) the manufacturer's liability doctrine, (4) the Alabama Extended Manufacturer's Liability Doctrine as it exists or is hereafter construed or modified, (5) breach of any implied warranty, or (6) breach of any oral express warranty and no other. A product liability action does not include an action for contribution or indemnity.

(b) The definition used herein is to be used for purposes of this Act and is not to be construed to expand or limit the status of the common or statutory law except as expressly modified by the provisions of this Act.

Section 3. In all product liability actions where damages for any medical or hospital expenses are claimed and are legally recoverable for personal injury or death, evidence that the plaintiff's medical or hospital expenses have been or will be paid or reimbursed (1) by medical or hospital insurance or (2) pursuant to the medical and hospital payment provisions of law governing workmen's compensation, shall be admissible as competent evidence in mitigation of such medical or hospital expense damages. In such actions upon admission of evidence respecting reimbursement or payment of medical or hospital expenses, the plaintiff shall be entitled to introduce evidence of the cost of obtaining reimbursement or payment of medical or hospital expenses. Such portion of the costs of obtaining reimbursement or payment of medical or hospital expenses as the trier of fact finds is reasonably related to the reimbursement or payment received or to be received by the plaintiff shall be a recoverable item of such damages for medical or hospital expenses.

Section 4. In all product liability actions information respecting reimbursement or payment obtained or which may be obtained by the plaintiff for medical or hospital expenses shall be subject to discovery.

Section 5. Upon proof by the plaintiff to the Court that the plaintiff is obligated to repay the medical or hospital expenses which have been or will be paid or reimbursed, no evidence relating to such reimbursement or payment not otherwise admissible shall be admissible as a result of this Act.

Section 6. All other laws, or parts of laws, which are in any manner inconsistent with this Act are repealed to the extent that they are inconsistent with this Act.

Section 7. If any section, clause, provision, or portion of this Act shall be held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, or provision of this act which is not in and of itself invalid or unconstitutional. Moreover, if the application of this Act, or of any portion hereof to any person or circumstance is held invalid, the invalidity shall not affect the application of the Act to other persons or circumstances which can be given effect without the invalid provision or application.

Section 8. This Act shall not affect any rights which have

accrued prior to the effective date of this Act.

Section 9. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved July 30, 1979

Time: 2:00 P.M.

Act No. 79-477

H. 917—Rains, Stout

AN ACT

Relating to DeKalb County providing additional or supplemental laws applicable to sub-division regulations and public health in DeKalb County because of the porous sandy soil and sand rock structure of the soil in said county; providing that neither the State Department of Health nor any other state or local officer or agency shall withhold approval of any sub-division or any lot therein nor withhold or refuse to issue a septic tank permit or health approval on any tract of land, which has topsoil of at least 36 inches over sandstone and has a percolation rate of one inch in 60 minutes or less.

Be It Enacted by the Legislature of Alabama:

Section 1. Notwithstanding any general or local law or any existing or future regulations of any state or local agency, since DeKalb County, Alabama, has porous and sandy soil over sand rock, and the general law and regulations of the State of Alabama are overly restrictive as applied to DeKalb County, it is hereby provided that neither the State Health Department nor any other state or local officer or agency shall withhold approval of any sub-division or any lot therein nor withhold or refuse to issue a septic tank permit or health approval on any tract of land, which has topsoil of at least 36 inches over sandstone and has a percolation rate of one inch in 60 minutes or less.

Section 2. There is hereby established in DeKalb County, Alabama, a fund to be known as DeKalb County Septic Tank Bond Fund. The trustee of said fund shall be the administrator or chief officer of the DeKalb County Health Department. Before the issuance of any approval certificate or health permit slip for any septic tank installed in DeKalb County, the DeKalb County Health Department shall collect a fee of \$100.00 for each septic tank installed. Said fee shall be deposited in the above fund which shall be kept in a checking account or certificate of deposit at a bank in DeKalb County, Alabama. Said funds shall accumulate until a total of \$5,000.00 is in said fund. All fees collected thereafter shall go to the DeKalb County Health Department for the operation of said department.

In the event of a failure within five years of a septic tank or field lines for which a fee has been collected, the DeKalb County Health Department shall contract for the repair or correction of said failure. Provided, however, that the failure is caused by abuse or damage by the owner or user of said septic tank, the repair shall not be done out of said fund. If any money is expended from said fund, future fees shall be paid into said fund to restore it to the amount of \$5,000.00.

Section 3. Any state or local law or any regulation of any state or local agency inconsistent with this act are hereby repealed as applied to DeKalb County.

Section 4. If any portion or provision of this act shall be declared invalid or unconstitutional, the remainder thereof shall remain in force.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 2:00 P.M.

Act No. 79-478

H. 955—Manley, Pegues

AN ACT

Relating to Marengo County; to provide for the office of supernumerary sheriff; and to provide for the qualifications, salaries, and manner of payment of such salaries of any such supernumerary sheriffs.

Be It Enacted by the Legislature of Alabama:

Section 1. Any sheriff of Marengo County a) who has served for 13 years as sheriff, and who becomes permanently and totally disabled, proof of such disability being made by certificate of three reputable physicians, or b) who has served a minimum of 16 years as sheriff and who has reached the age of 52 years may elect to become a supernumerary sheriff of Marengo County by filing a written declaration to that effect with the governor of the State of Alabama. If the governor of the State of Alabama shall find any such declarant qualified under either subsection (a) or (b), a commission as supernumerary sheriff of Marengo County shall thereupon be issued to such declarant by the governor.

Section 2. Each such supernumerary sheriff shall serve for life and receive from the county governing body in equal monthly

installments, on the first of each month, an annual salary of 50 percent of the salary of the current sheriff of Marengo County, which shall be adjustable in like manner with any salary increase the current sheriff shall receive. For every year served as sheriff over 16 years the salary of the supernumerary sheriff shall increase by two percent of the sheriff's salary at the time he ceased to serve as sheriff up to a maximum of 62 percent of such salary. The tax collector if there is a supernumerary sheriff in Marengo County shall out of the first money collected by him pay to the county governing body the said sum which shall be paid to the supernumerary sheriff as heretofore set forth. The said sum shall be deducted on a pro rata millage basis from payments to the state, county and all subdivisions and agencies thereof except municipalities to which the person collecting ad valorem taxes is charged with distributing of ad valorem taxes collected under the law. Should such supernumerary sheriff die or otherwise become disqualified as such supernumerary official any money remaining in such fund shall be refunded to the person by whom it was paid to the county and he shall distribute the money refunded to him to the state, county and other subdivisions and agencies on the same pro rata millage basis that it was originally withheld.

Section 3. The governing body of Marengo County shall immediately upon the effective date of this act begin deducting from the salary of the sheriff an amount equal to six percent of the annual salary paid to the sheriff. Such sum shall be deducted monthly and distributed at the end of the fiscal year to the tax collector or other person charged with the duties of collecting ad valorem taxes in Marengo County. The tax collector shall distribute this money on a pro rata millage basis to the state, county and all subdivisions and agencies thereof except municipalities to which ad valorem taxes are paid. If any sheriff coming under the provisions of this act shall end his tenure of office prior to becoming supernumerary as provided in Section 1 (a) and (b) the tax collector or person charged with collecting the ad valorem taxes shall withhold from the next money collected on a pro rata millage basis a sum equal to one-half of the amount paid by the sheriff to the governing body of the county during his tenure in office and such sum shall be paid to the person from whom the money was collected. In the event such person dies prior to payment the monies shall be paid to his spouse or beneficiary.

Section 4. If such sheriff is eligible for retirement under any county or state retirement act, such sheriff may elect to continue thereunder or may withdraw from such act and immediately become eligible under the provisions of this act. No person may

participate in both this act and any other retirement act of the state or of Marengo County.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this act are hereby repealed.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 2:00 P.M.

Act No. 79-479

H. 429—Williams, Sasser

AN ACT

To alter or rearrange the boundary lines of the Town of Midland City, Dale County, Alabama, so as to include within the corporate limits of said town all territory now within such corporate limits, and also certain other territory in Dale County, Alabama.

Be It Enacted by the Legislature of Alabama:

Section 1. That the boundary lines of the Town of Midland City, Dale County, Alabama, be and the same are altered or rearranged so as to include within the corporate limits of said town, all territory now within such corporate limits and also other territory within Dale County, Alabama, described as follows:

The West $\frac{1}{2}$ of the NW $\frac{1}{4}$, Section 23, T4N, R25E, being 80 acres more or less; also that portion of the East $\frac{1}{2}$ of the NW $\frac{1}{4}$, Section 23, T4N, R25E, not presently in the corporate limits, being 33 acres more or less.

All that portion of the SE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 24, T4N, R25E, not presently in the corporate limits, being 15 acres more or less; all that portion in the S $\frac{1}{2}$ of the SE $\frac{1}{4}$, Section 24, T4N, R25E, not presently in the corporate limits, being 18 acres more or less; The NE $\frac{1}{4}$ of NE $\frac{1}{4}$, Section 25, T4N, R25E, being 40 acres more or less.

The SW $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 18, T4N, R26E, being 40 acres more or less; all that portion of the SE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 18, T4N, R26E, not presently in the corporate limits, being 25 acres more or less. The NW $\frac{1}{4}$ of Section 30, T4N, R26E, being 160 acres more or less;

the NE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 30, T4N, R26E, being 40 acres, more or less; the South $\frac{1}{2}$ of the SE $\frac{1}{4}$, Section 30, T4N, R26E, being 80 acres more or less; all that portion of the NW $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 30, T4N, R26E, being 27 $\frac{1}{2}$ acres more or less, less and except the East 12 $\frac{1}{2}$ acres more or less owned by Michelin Tire Corporation; all that portion of the West $\frac{1}{2}$ of the NE $\frac{1}{4}$, Section 30, T4N, R26E, being 49 acres more or less; less and except the East 31 acres more or less owned by Michelin Tire Corporation.

Beginning at a point where the West forty line of the SW $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 29, T4N, R26E, intersects the Northeast right of way line of U. S. 231, thence running North along the West forty line of said quarter for a distance of 300 feet; thence running Southeast parallel the Northeast right of way line of U. S. 231 to the South forty line of said quarter; thence running West along the South forty line of said quarter for a distance of 300 feet to the Northeast right of way line of U. S. 231; thence running Northwest along the Northeast right of way line of U. S. 231 to the point of beginning. Said parcel of land being in and a portion of the SW $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 29, T4N, R26E, and contains 4 acres more or less.

All that portion of the East $\frac{1}{2}$ of NW $\frac{1}{4}$, Section 19, T4N, R26E, not presently in the corporate limits, being 50 acres, more or less; all that portion of the East $\frac{1}{2}$ of SW $\frac{1}{4}$, Section 19, T4N, R26E, not presently in the corporate limits, being 57 acres more or less; all that portion in the SW $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 19, T4N, R26E, not presently in the corporate limits, being 18 acres more or less; also the North $\frac{1}{2}$ of the NE $\frac{1}{4}$, Section 19, T4N, R26E, containing 80 acres more or less; also the West $\frac{1}{2}$ of the SE $\frac{1}{4}$, Section 19, T4N, R26E, containing 80 acres more or less.

The West $\frac{1}{2}$ of the SW $\frac{1}{4}$, Section 14, T4N, R25E, being 80 acres, more or less; also all that portion of the East $\frac{1}{2}$ of the SW $\frac{1}{4}$, Section 14, T4N, R25E, not presently in the corporate limits, being 35 acres more or less.

Said parcels of land being in Dale County, Alabama and contains 1012 $\frac{1}{2}$ acres more or less.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 2:00 P.M.

Act No. 79-480

H. 808—Grimsley, Whatley, Sasser,
Ray

AN ACT

Relating to Barbour County; to alter, rearrange and extend the boundary lines and corporate limits of the municipality of Eufaula in Barbour County.

Be It Enacted by the Legislature of Alabama:

Section 1. In Barbour County, the boundary lines and corporate limits of the municipality of Eufaula are hereby altered, rearranged and extended so as to include within the corporate limits of said municipality, in addition to the lands now included, all of the following territory, to-wit:

AREA 1

Starting at the intersection of the North line of Section 26, T-11-N, R-29-E, and the Alabama-Georgia State line, the West bank of the Chattahoochee River, said point being a "corner" on the present city limits line of Eufaula; Thence Northerly along the Alabama-Georgia State line, the West Bank of the Chattahoochee River to the North line of the South half of Section 18, T-12-N, R-30-E; Thence Westerly along said North line of the South half of Section 18 and the North line of the South half of Section 13, T-12-N, R-29-E, and the North line of the Southeast Quarter of Section 14, T-12-N, R-29-E, to the Northwest corner of said Southeast Quarter of Section 14; Thence Southerly along the West line of said Southeast Quarter of Section 14 and the West line of the East half of Section 23, T-12-N, R-29-E, to the North line of Section 26, T-12-N, R-29-E; Thence Westerly along said North line of Section 26 and the North line of Sections 27 and 28, T-12-N, R-29-E, to the Northwest corner of said Section 28; Thence Southerly along the West line of said Section 28 and the West line of Section 33, T-12-N, R-29-E, to the Northeast corner of Section 5, T-11-N, R-29-E; Thence Westerly along the North line of said Section 5 to the Northwest corner of said Section 5; Thence Southerly along the West line of said Section 5 and the West line of Section 8, T-11-N, R-29-E, to the Northeast corner of Section 18, T-11-N, R-29-E; Thence Westerly along the North line of said Section 18 to the Northwest corner of said Section 18; Thence Southerly along the West line of said Section 18 to the Northeast corner of Section 24, T-11-N, R-28-E; Thence Westerly along the North line of said Section 24 and the North line of Section 23, T-11-N, R-28-E, to the Northwest corner of the East half of the West half of said Section 23; Thence Southerly along the West line of the East half of the West half of said Section 23 and the West line of the East half of the West half of Sections 26 and 35, T-11-N, R-28-E, to the North line of Section 2, T-10-N, R-28-E; Thence Westerly

along the North line of said Section 2 and the North line of Sections 3, 4, 5 and 6, T-10-N, R-28-E, to the Northwest Corner of said Section 6; Thence Southerly along the West line of said Section 6 to the Southwest corner of said Section 6; Thence Easterly along the South line of said Section 6 and the South lines of Sections 5 and 4, T-10-N, R-28-E, to the Northwest corner of Section 10, T-10-N, R-28-E, to the Northwest corner of Section 10, T-10-N, R-28-E; Thence Southerly along the West line of said Section 10 and the West line of Section 15, T-10-N, R-28-E, to the Southwest corner of said Section 15; Thence Easterly along the South line of said Section 15 to the Southeast corner of Section 15; Thence Northerly along the East line of said Section 15 to the Southwest corner of Section 11, T-10-N, R-28-E; Thence Easterly along the South line of said Section 11 and the South line of Section 12, T-10-N, R-28-E, to a point five hundred (500) feet Southwest of the center line of the Clayton Highway (Alabama Highway 30), as measured at right angles to said centerline, being a "Point" on the present city limits line of Eufaula. (All courses up to this point have been along the proposed city limits line of Eufaula - All courses hereafter will be along the present city limits line of Eufaula.) Thence Northwesterly along a line parallel to and five hundred (500) feet Southwest of the centerline of the Clayton Highway (Alabama Highway 30), as measured at right angles to said centerline to the East line of Indian Hills Subdivision as recorded in Map Book 2, at page 28, in the office of the judge of probate at Eufaula, Barbour County, Alabama; Thence Southerly along said East line of Indian Hills Subdivision to the Southeast corner thereof; Thence Westerly along the South line of Indian Hills Subdivision to the Southwest corner thereof; Thence Northerly along the West line of Indian Hills Subdivision to the Southeast corner of Mancuso Subdivision as recorded in Map Book 2, at page 8, in the office of the judge of probate at Eufaula, Barbour County, Alabama; Thence Westerly along the South line of said Mancuso Subdivision, and a projection thereof, to the centerline of the Cottonhill Road; Thence Northerly along said centerline of the Cottonhill Road, and a projection thereof, to the South line of Taylor Subdivision as recorded in Map Book 1, at page 95, in the office of the judge of probate at Eufaula, Barbour County, Alabama; Thence Northwesterly, and then Northerly, and then Westerly, and then Northerly, and then Westerly, and then Northerly along the South and West lines of said Taylor Subdivision to the Northwest corner thereof; Thence Easterly along the North line of said Taylor Subdivision to the Northeast corner thereof; Thence Southerly, and then Easterly and then again Southerly along the East line of said Taylor Subdivision to a point five hundred (500) feet Northeast of the centerline of the Clayton Highway (Alabama Highway 30), as measured at right

angles to said centerline; Thence Southeasterly along a line parallel to and five hundred (500) feet Northeast of the centerline of the Clayton Highway (Alabama Highway 30), as measured at right angles to said centerline, to the West line of Section 18, T-10-N, R-29-E; Thence Northerly along said West line of Section 18 and the West line of Sections 7 and 6, T-10-N, R-29-E, to the centerline of Barbour Creek; Thence Northwesterly along said centerline of Barbour Creek to the North line of Section 2, T-10-N, R-28-E; Thence Easterly along said North line of Section 2 to the Southwest corner of Section 36, T-11-N, R-28-E; Thence Northerly along the West line of said Section 36 and the West line of Section 25, T-11-N, R-28-E, to the Northeast corner of said Section 25; Thence Easterly along the North line of said Section 25 and the North line of Sections 30 and 29, T-11-N, R-29-E, to a point five hundred (500) feet Southwest of the centerline of the Montgomery Highway (U. S. Highway 82) as measured at right angles to said centerline; Thence Northwesterly along a line parallel to and five hundred (500) feet Southwest of the centerline of the Montgomery Highway (U. S. Highway 82), as measured at right angles to said centerline, to the North line of Section 19, T-11-N, R-29-E; Thence Easterly along said North line of Section 19 to a point five hundred (500) feet Northeast of the centerline of the Montgomery Highway (U. S. Highway 82), as measured at right angles to said centerline; Thence Southeasterly along a line parallel to and five hundred (500) feet Northeast of the centerline of the Montgomery Highway (U. S. Highway 82), as measured at right angles to said centerline, to the North line of Section 29, T-11-N, R-29-E; Thence Easterly along said North line of Section 29 to a point five hundred (500) feet West of the centerline of the Columbus Highway (U. S. Highway 431), as measured at right angles to said centerline; Thence Northerly along a line parallel to and five hundred (500) feet West of the centerline of the Columbus Highway (U. S. Highway 431) to the South line of the West leg of Northside Estates Subdivision as recorded in Map Book 2, at page 19, in the office of the judge of probate at Eufaula, Barbour County, Alabama; Thence Westerly along said South line of the West leg of Northside Estates Subdivision to the Southwest corner thereof; Thence Northerly along the West line of Northside Estates Subdivision to the Northeast corner thereof; Thence Easterly along the North line of Northside Estates Subdivision to the West line of the Northwest Quarter of the Northeast Quarter of Section 16, T-11-N, R-29-E; Thence Northerly along said West line of the Northwest Quarter of the Northeast Quarter of Section 16 to the South line of Section 9, T-11-N, R-29-E; Thence along said South line of Section 9 to a point 1120 feet West of the West R/W of the Columbus Highway (U. S. Highway 431), as measured along the South line of Section 9, said

point being the Southwest corner of the Weedon Field Airport Property; Thence along the property line of Weedon Field Airport the following courses: North 1058 feet; North 55 deg. West 1740 feet; North 1 deg. 30 min. East 585 feet; East along the half Section line of said Section 9 1350 feet; Northerly 900 feet; East 230 feet (more or less); Northerly 750 feet (more or less); East 450 feet (more or less); South 3 deg. 21 min. East 1900 feet (more or less); South 62 deg. East to a point five hundred (500) feet West of the centerline of the Columbus Highway (U. S. Highway 431), as measured at right angles to said centerline; Thence Northerly along a line parallel to and five hundred (500) feet West of the centerline of the Columbus Highway (U. S. Highway 431), as measured at right angles to said centerline to the centerline of Cowikee Creek; Thence Westerly along said centerline of Cowikee Creek to the West property line of Lakepoint State Park; Thence along the property line of Lakepoint State Park the following courses: North 1 deg. 17 min. East 2300 feet (more or less); North 45 deg. 6 min. East 505.5 feet; North 1 deg. 17 min. East 425 feet; North 88 deg. 56 min. East 425 feet; North 1 deg. 17 min. East 300 feet; North 88 deg. 56 min. East 400 feet; North 1 deg. 17 min. East 200.8 feet to permanent reference marker no. 93 on the North line of the South half of Section 28, T-12-N, R-29-E; Easterly along said North line of the South half of Section 28 and the North line of the South half of Section 27, T. 12-N, R-29-E, 8800 feet (more or less); South 46 deg. 3 min. East 1795.2 feet; South 58 deg. 51 min. East 990.5 feet; South 46 deg. 48 min. West 495.1 feet; South 34 deg. 38 min. West 1314.8 feet; South 34 deg. 39 min. West 463.7 feet; South 89 deg. 6 min. East 883.4 feet; South 2500 feet; East 300 feet; South 45 deg. East 825 feet; East 275 feet; South 30 deg. East 375 feet; South 825 feet; East 250 feet; South 375 feet; South 45 deg. East 700 feet; East 1050 feet; South to the centerline of Cowikee Creek; Thence Northwesterly along said centerline of Cowikee Creek to a point five hundred (500) feet East of the centerline of the Columbus Highway (U. S. Highway 431), as measured at right angles to said centerline; Thence Southerly along a line parallel to and five hundred (500) feet East of the centerline of the Columbus Highway (U. S. Highway 431), as measured at right angles to said centerline to a point 4300 feet (more or less) West of U. S. Corp of Engineers permanent reference monument no. 21-B, as measured along a line parallel to the centerline of Lake Drive (Old Creek Town Road); Thence Easterly along a line parallel to the centerline of Lake Drive (Old Creek Town Road) 4300 feet (more or less) to the U. S. Corp of Engineers permanent reference monument no. 21-B; Thence South 89 deg. 43 min. East 899.9 feet to monument 21-C; Thence North 3 deg. 34 min. East 499.9 feet to monument 21-D being 2325 feet North of and 4475 feet East of the Southwest corner of Section 21, T-11-N, R-29-E; Thence North 30 deg. East

749.7 feet to monument 21-E; Thence North 30 deg. East 105 feet to the centerline of Reeves Branch; Thence Southeasterly along the centerline of Reeves Branch to the normal lake pool (elevation 190 feet M.S.L.) on Lake Eufaula; Thence Southerly along said normal lake pool line (elevation 190 feet M.S.L.) on Lake Eufaula to the North line of Section 27, T-11-N, R-29-E; Thence Easterly along said North line of Section 27 and the North line of Section 26, T-11-N, R-29-E to the Point of Beginning.

AREA 2

Starting at the intersection of a line parallel to and five hundred (500) feet Southwest of the centerline of the Clayton Highway (Alabama Highway 30), as measured at right angles to said centerline and the West line of the East half of the East half of Section 13, T-10-N, R-28-E, a "Point" on the present city limits line of Eufaula; Thence Southerly along the West line of the East half of the East half of Section 13 to the West R/W of the Old Bakerhill Road; Thence Southwesterly along said West R/W of the Old Bakerhill Road to the Northerly line of Lot 1, Block 12 of the Alabama Pecan Company Subdivision as recorded in Deed Book V, at page 312, in the office of the judge of probate at Eufaula, Barbour County, Alabama; Thence Northwesterly along said Northerly line of Lot 1 to the Northwest corner of said Lot 1; Thence Southwesterly along the Westerly line of said Lot 1 and the Westerly line of Lot 2, Block 12 of the Alabama Pecan Company Subdivision eleven hundred and fifty (1150) feet to the Southwest corner of the Northern half of said Lot 2; Thence Southeasterly along the Southerly line of the Northern half of said Lot 2 to the South line of the North half of the South half of Section 13, T-10-N, R-28-E; Thence Easterly along said South line of the North half of the South half of Section 13 to the Southwest corner of the North half of the Southwest Quarter of Section 18, T-10-N, R-29-E, being a "corner" on the present city limits line of Eufaula. (All courses up to this point have been along the proposed city limits line of Eufaula - All courses hereafter will be along the present city limits line of Eufaula.) Thence Northerly along the West line of the North half of the Southwest Quarter of Section 18 to the South line of Willow Oaks, a Subdivision, as recorded in Map Book 2, at page 54, in the office of the judge of probate at Eufaula, Barbour County, Alabama; Thence Westerly along said South line of Willow Oaks to the Southwest corner thereof; Thence Northerly and then Northeasterly along the West line of Willow Oaks to the South line of the 2nd Addition to the Resubdivision of Cassandra Subdivision as recorded in Map Book 2, at page 16, in the office of the judge of probate at Eufaula, Barbour County, Alabama; Thence

Northwesterly along said South line of the 2nd Addition to the Resubdivision of Cassandra Subdivision and a projection thereof to the centerline of the Old Bakerhill Road; Thence Northeasterly along said centerline of the Old Bakerhill Road to a point five hundred (500) feet Southwest of the centerline of the Clayton Highway (Alabama Highway 30) as measured at right angles to said centerline; Thence Northwesterly along a line parallel to and five hundred (500) feet Southwest of the centerline of the Clayton Highway (Alabama Highway 30), as measured at right angles to said centerline to the Point of Beginning.

AREA 3

Starting at the Southwest corner of the North half of the Southwest Quarter of Section 18, T-10-N, R-29-E, being a "corner" on the present city limits line of Eufaula; Thence Southerly along the West line of said Section 18 and the West line of Sections 19 and 30, T-10-N, R-29-E, to the Northeast corner of the South half of the Northeast Quarter of Section 25, T-10-N, R-28-E; Thence Westerly along the North line of said South half of the Northeast Quarter of Section 25 to the Northwest corner of said South half of the Northeast Quarter of Section 25; Thence Southerly along the West line of the South half of the Northeast Quarter of Section 25 and the West line of the Southeast Quarter of Section 25 and the West line of the East half of Section 36, T-10-N, R-28-E, to the South line of Section 36; Thence Easterly along the South line of said Section 36 and the South line of Section 31, T-10-N, R-29-E, to the Northwest corner of the East half of the Northeast Quarter of Section 6, T-9-N, R-29-E; Thence Southerly along the West line of the East half of the Northeast Quarter of Section 6 to the Southwest corner of the East half of the Northeast Quarter of Section 6; Thence Easterly along the South line of the East half of the Northeast Quarter of Section 6 to the West line of Section 5, T-9-N, R-29-E; Thence Southerly along said West line of Section 5 to the Southwest corner of Section 5; Thence Easterly along the South line of Section 5 to the Northwest corner of the North half of the Northeast Quarter of Section 8, T-9-N, R-29-E; Thence Southerly along the West line of the North half of the Northeast Quarter of Section 8 to the Southwest corner of the North half of the Northeast Quarter of Section 8; Thence Easterly along the South line of the North half of the Northeast Quarter of Section 8 and the South line of the North half of the North half of Section 9, T-9-N, R-29-E, to the Alabama-Georgia State line, the West bank of the Chattahoochee River; Thence Northerly along said Alabama-Georgia State line, the West bank of the Chattahoochee River, to the North line of Section 4, T-9-N, R-29-E; Thence Westerly along the said North line of Section 4 and the North line of Section 5, T-9-N, R-29-E, to the Southeast corner of the

West half of the West half of Section 32, T-10-N, R-29-E; Thence Northerly along the East line of the West half of the West half of Section 32 and the East line of the West half of the West half of Section 29, T-10-N, R-29-E, to the centerline of Cheneyhatchee Creek; Thence Southeasterly along said centerline of the Cheneyhatchee Creek to the Alabama-Georgia State line, the West bank of the Chattahoochee River; Thence Northerly along the Alabama-Georgia State line, the West bank of the Chattahoochee River, to the South line of the North half of the Southwest Quarter of Section 16, T-10-N, R-29-E, being a "corner" on the present city limits line of Eufaula; (All courses up to this point have been along the proposed city limits line of Eufaula - All courses hereafter will be along the present city limits line of Eufaula.) Thence Westerly along the South line of the North half of the Southwest Quarter of Section 16 to the property line of the U. S. Government on Lake Eufaula; Thence Southwesterly and then Northwesterly along the property line of the U. S. Government as it generally follows the shoreline of Lake Eufaula to the South line of the North half of the South half of Section 17, T-10-N, R-29-E; Thence Westerly along said South line of the North half of the South half of Section 17 and the South line of the North half of the Southeast Quarter of Section 18, T-10-N, R-29-E to the property line of the U. S. Government on Lake Eufaula; Thence Southerly and then Westerly along the property line of the U. S. Government as it generally follows the shoreline of Lake Eufaula to a point five hundred (500) feet West of the centerline of the Dothan Highway (U. S. Highway 431), as measured at right angles to said centerline; Thence Northerly along a line parallel to and five hundred (500) feet West of the centerline of the Dothan Highway (U. S. Highway 431), as measured at right angles to said centerline, to the South line of the North half of the Southwest Quarter of Section 18, T-10-N, R-29-E; Thence Westerly along the South line of the North half of the Southwest Quarter of Section 18 to the Point of Beginning.

It is the intention of these descriptions to include all areas encompassed by the proposed city limits lines, as described, not presently within the city limits of Eufaula, Alabama.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 2:00 P.M.

Act No. 79-481

H. 984—Dial

AN ACT

Relating to Clay County; abolishing the position of county license inspector; placing the powers, duties and functions of said office in the sheriff of said county; providing for the disposition of fees accruing from the performance of the duties of license inspector and repealing conflicting laws.

Be It Enacted by the Legislature of Alabama:

Section 1. In Clay County, notwithstanding the provisions of Section 40-12-10, Code of Alabama 1975, and any other general or local law of this state, no person shall be appointed to the position of county license inspector of or for Clay County. The position of county license inspector in said county is hereby abolished and the powers, duties and functions of said office shall henceforth be vested in and performed by the sheriff of said county. All fines, fees, and penalties heretofore paid to the license inspector for the performance of his duties of office shall be paid into the general fund of the county.

Section 2. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 2:00 P.M.

Act No. 79-482

H. 986—Dial

AN ACT

Relating to Cleburne County; abolishing the position of county license inspector; placing the powers, duties and functions of said office in the sheriff of said county; providing for the disposition of fees accruing from the performance of the duties of license inspector and repealing conflicting laws.

Be It Enacted by the Legislature of Alabama:

Section 1. In Cleburne County, notwithstanding the provisions of Section 40-12-10, Code of Alabama 1975, and any other general or local law of this state, no person shall be appointed to the position of county license inspector of or for Cleburne County. The position of county license inspector in said county is hereby abolished and the powers, duties and functions of said office shall

henceforth be vested in and performed by the sheriff of said county. All fines, fees, and penalties heretofore paid to the license inspector for the performance of his duties of office shall be paid into the general fund of the county.

Section 2. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 2:00 P.M.

Act No. 79-483

S. 227—St. John

AN ACT

To amend Section 11-50-313, Code of Alabama 1975, which pertains to the Board of Directors of certain water, sewer, gas and electric systems, so as to authorize the governing body of the municipality with respect to which the corporation was primarily organized, to set and establish the fee payable to the directors of the corporation.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 11-50-313, Code of Alabama 1975, which pertains to the Board of Directors of certain water, sewer, gas and electric systems, is amended to read as follows:

“Section 11-50-313. Board of Directors.

“Each corporation formed or the certificate of incorporation of which is amended under this article shall have a board of directors which shall constitute the governing body of the corporation, which board shall consist of three members.

“No fee shall be paid to any director for services rendered with respect to a sanitary sewer system. In any instance where the system or systems owned and operated by the corporation are any one or more of a water system, a gas system and an electric system, the chairman of the board of directors may, at the direction of the governing body of the municipality with respect to which the corporation was primarily organized, be paid a director's fee in an amount to be set and established by the said governing body each month for one such system and \$10.00 each month for each additional system, and each member of the board of directors other than the chairman may be paid a director's fee in an amount to be set and established by the said governing body each month for such system; provided, that where the municipality with respect to

which the corporation was primarily organized has less than 5,000 inhabitants according to the most recent official census, the maximum total amount of director's fees which may be paid to the chairman of its board of directors shall not exceed \$25.00 during any month, and the maximum total amount of director's fees which may be paid to any other member of the board of directors shall not exceed \$20.00 during any month. In all cities having populations of not less than 6,500 nor more than 8,500 according to the most recent federal decennial census, the members of the board of directors, including the chairman, may each be paid a director's fee in an amount not exceeding \$25.00 each month. In all cities having populations of not less 23,000 nor more than 27,000 according to the most recent federal decennial census, the chairman of the board of directors, at the discretion of such board, may be paid a director's fee in an amount not exceeding \$125.00 each month, and each member of the board other than the chairman may be paid a director's fee in an amount not exceeding \$100.00 each month. All members of the board of directors of any corporation organized under the provisions of this article shall be reimbursed for actual expenses incurred in and about the performance of their duties under this article.

“Any officer of the municipality shall be eligible for appointment and may serve as a member of the board of directors for the term for which he is appointed or during his tenure as a municipal officer, whichever expires first, but he shall not receive a fee for his services; provided, however, that at no time shall the board consist of more than two officers of the municipality. The directors of the corporation shall be elected by the governing body of the municipality, and they shall be so elected that they shall hold office for staggered terms. The first term of office of one director shall be two years, of another director shall be four years and of a third director shall be six years, as shall be designated at the time of their election, and thereafter the term of office of each director shall be six years; provided, however, that the governing body of any municipality which has heretofore or hereafter authorized the creation of a corporation as provided in this article may, at its option, increase the board of directors from three to five members to serve according to all the conditions and terms set forth in this article. In the event the governing body elects to increase such board of directors from three to five members, one member added to the board shall be appointed for a term of four years and the remaining member for a term of six years, and thereafter the term of each such director shall be six years; provided, that at no time shall such board consist of more than three officers of the municipality; provided further, that any officer of the municipality appointed to serve as a member of the board of directors shall serve

for the term for which he is appointed or during his tenure as a municipal officer, whichever expires first."

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. This act shall become effective upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 2:00 P.M.

Act No. 79-484

H. 24—Gafford, Pegues, Sasser, Ray
AN ACT

To repeal Section 36-6-9, Code of Alabama 1975, which deals with the compiling of a journal of salaries or compensation for certain unclassified employees.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 36-6-9, Code of Alabama 1975, which relates to the compiling of a journal of salaries or compensation for certain unclassified employees, is hereby repealed.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Passed, the Governor's veto to the contrary notwithstanding, on July 30, 1979.

Act No. 79-485

H. 653—Bennett, Amari,
Johnson (Roy), Waggoner,
Harper (T), Dixon, Lewis,
Coburn

AN ACT

Proposing an amendment to the Constitution of Alabama relative to the levy of an additional three-mill district school tax above and beyond those taxes now in existence.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama is proposed to become valid as part of the Constitution when approved by a majority of the qualified electors voting

thereon and upon proclamation by the Governor:

PROPOSED AMENDMENT

In addition to any and all taxes now authorized, or that may be hereafter authorized by the Constitution and laws of Alabama, the several school districts of any in the state shall have power to levy and collect an additional special district school tax not exceeding thirty cents on each one hundred dollars worth of taxable property in such district for public school purposes in addition to that now authorized or that may hereafter be authorized for public school purposes; provided that a school district under this section shall include incorporated cities or towns, or any school district of which an incorporated city or town is a part, or such other school districts now existing or hereafter formed as may be approved by the county board of education, provided, further, that the rate of such tax, the time it is to continue and the purpose thereof shall have been first submitted to the vote of the qualified electors of the district, and voted for a majority of those voting at such election.

Section 2. An election upon the proposed amendment is ordered to be held on the same day as the next general election of state and county officers next following final passage of this act. The election shall be held in accordance with the provisions of Sections 284 and 285 of the Constitution of Alabama, as amended and Sections 17-7-1 through 17-7-6 of the Code of Alabama 1975.

Section 3. Notice of the election and of the proposed amendment shall be given by proclamation of the Governor, which proclamation shall be published once a week for four successive weeks next preceding the day appointed for the election in a newspaper in each county of the state. If a newspaper is not published in the county, a copy of the notice shall be posted at the courthouse and in three other places in the county.

CONSTITUTIONAL AMENDMENT

Passed the House July 18, 1979

Passed the Senate July 30, 1979

Act No. 79-486

H. 38—Smith (J)

AN ACT

To amend Sections 30-2-31, 30-2-50, 30-2-51, 30-2-52 and 30-2-54 and to repeal Section 30-2-53, Code of Alabama 1975, each of which relates to divorce and alimony proceedings, so as to authorize the courts to make an allowance for the support of either spouse out of the estate of the other; to consider the misconduct of either spouse in determining the amount of such allowance and to award attorney's fees in such

proceedings.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 30-2-31, 30-2-50, 30-2-51, 30-2-52 and 30-2-54 of the Code of Alabama 1975 are hereby amended to read as follows:

“§ 30-2-31. The proceedings in such cases are the same in all respects, and the court has the same power to make an allowance to either spouse out of the estate of the other spouse and provide for the custody and education of the children of the marriage, as provided in this Code for divorces from the bonds of matrimony.

“§ 30-2-50. Pending an action for divorce, the court may make an allowance for the support of either spouse out of the estate of the other spouse, suitable to the spouse's estate and the condition in life of the parties, for a period of time not longer than necessary for the prosecution of the complaint for divorce.

“§ 30-2-51. If either spouse has no separate estate or if it be insufficient for the maintenance of such spouse, the judge, upon granting a divorce, at his discretion, may order to such spouse an allowance out of the estate of the other spouse, taking into consideration the value thereof and the condition of the spouse's family; provided, however, that the judge may not take into consideration any property acquired prior to the marriage of the parties or by inheritance or gift unless the trial judge finds from the evidence that such property, or income produced by such property, has been used regularly for the common benefit of the parties during their marriage.

“§ 30-2-52. If the divorce is in favor of either spouse for the misconduct of the other spouse, the judge trying the case shall have the right to make an allowance to either spouse out of the estate of either spouse, or not make an allowance as the circumstances of the case may justify, and if an allowance is made, the misconduct of either spouse may be considered in determining the amount; provided, however, that any property acquired prior to the marriage of the parties or by inheritance or gift may not be considered in determining the amount.

“§ 30-2-54. In all actions for divorce or for the recovery of alimony, maintenance or support in which a judgment of divorce has been issued or is pending and a contempt of court citation has been made by the court against either party, the court may, of its discretion, upon application therefor, award a reasonable sum as fees or compensation of the attorney or attorneys representing both parties.”

Section 2. Section 30-2-53 of the Code of Alabama 1975 is hereby expressly repealed.

Section 3. The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on July 27, 1979, without approval by the Governor.

Act No. 79-487

H. 996—Cooley, Bowling

AN ACT

Relating to Cullman County; To provide for the construction, repair, and maintenance of roads and bridges; to provide for the powers and duties of the county commission and the state highway department in this respect; to provide for the transfer of certain equipment, funds and personnel; to provide for the appointment of a county engineer; to provide for the compensation of all county road employees; to provide a salary supplement for members of the county commission; and to provide for approval by the electors of Cullman County as an alternate means of effectuating the provisions hereof.

Be It Enacted by the Legislature of Alabama:

Section 1. The provisions of this act shall become effective upon the effective date of a general law divesting the state highway department of the duty of constructing, repairing and maintaining county roads and bridges, or in the event no such general law becomes effective prior to January 1, 1980, upon its approval by majority of the electors of Cullman County voting at a referendum election which shall be held upon the date of the 1980 Presidential Primary Election. On the ballot to be used at the election the question shall be stated substantially as follows: "Do you favor the local law providing for transfer of road and bridge duties and authority from the state highway department to the County Commission? Yes () No ()" If this Act is approved at such referendum, it shall become effective upon the official proclamation of result of the Judge of Probate.

Section 2. The Cullman County Commission or like governing body of Cullman County shall be solely responsible for the construction, repair, and maintenance of the roads and bridges in the county; but all such construction, repair and maintenance

shall be done on the basis of the county as a unit, without regard to district or quadrant lines, and under the supervision of an engineer or other qualified road supervisor. The county governing body shall have all the powers and jurisdiction with respect to county roads and bridges which are or which hereafter may be vested in or required of county governing bodies by the general laws of this state, or vested in or required of the governing body of Cullman County by local law; and except as may be otherwise provided herein members of the county governing body of Cullman County shall perform all the duties and services and shall exercise all the powers and authority with respect to the construction, repair and maintenance of county roads and bridges which are or hereafter may be provided by law for members of county governing bodies.

Section 3. Any unexpended monies remaining in the fund required by law to be maintained by the state highway department for use in the construction, repair, and maintenance of county roads and bridges in Cullman County shall be paid over to the county governing body of Cullman County except as otherwise provided by this Act. Thereafter, all funds and monies designated by law for the use in the construction, repair and maintenance of county roads and bridges in Cullman County may be entitled, whether from the proceeds of the state gasoline tax, the motor vehicle license tax, or other state tax, or any federal aid accruals, or from any other source whatsoever, shall be paid to the county governing body of Cullman County by the appropriate county or state official.

Section 4. The state highway department shall transfer and turn over to the governing body of Cullman County adequate facilities and properties presently being used by the State Highway Department in carrying out the functions and duties in relation to roads and bridges in Cullman County, also road equipment, machinery and supplies of like kind, amount, nature, and present value as of 1979 to the respective road equipment, machinery, and supplies which Cullman County was required to transfer and turn over to the state highway department in accordance with legislation enacted prior to the adoption of this Act, which legislation required the state highway department to construct, repair and maintain roads and bridges in Cullman County. Any dispute which may arise as a result of this section shall be resolved by the majority of the members of a committee consisting of the Highway Director or his agent, the Chairman of the county governing body of the respective county or his agent, and one member from the legislative delegation of the respective county to be selected by the legislative delegation.

Section 5. The state highway department shall submit to the

county a list of all persons employed by said department in the construction, repair and maintenance of county roads and bridges in Cullman County, which list shall contain the following information regarding each such employee: (1) name; (2) salary; (3) percentage of work time on county roads; (4) percentage of work time on state roads; (5) accrued sick leave and annual leave benefits; (6) years of service. The county may employ from said list not exceeding 75% of the total number of persons on the list, for the construction, repair and maintenance of county roads and bridges in accordance with personnel policy adopted by the county commission. Any employee not chosen for employment by the county, and any employee chosen by the county who declines to become a county employee, or who leaves the employ of the county within six (6) months of the effective date hereof, shall be retained by the state highway department subject to the regular employment practices of the state highway department. All present and accumulated obligations due and payable to the present employees as a result of their employment with the state highway department shall be the obligation of the State of Alabama including but not limited to accumulated sick leave, vacation time and retirement and any other accumulated benefits earned by the employees.

Section 6. Any contract for the construction, repair or maintenance of county roads and bridges in Cullman County entered into by the state highway department prior to the adoption of this Act shall remain in full force and effect until the returns thereof shall have been complied with.

Section 7. All outstanding financial obligations which were incurred prior to the adoption of this Act for the construction, repair, or maintenance of county roads and bridges in Cullman County, shall, upon adoption of this Act, become outstanding financial obligations of Cullman County, and shall be retired or paid in accordance with the terms under which such indebtedness was incurred.

Section 8. The Cullman County governing body shall employ a county engineer, possessing all of the qualifications specified for county engineers under the general laws of the State of Alabama; and such engineer shall devote his entire time and attention to the maintenance and construction of the Cullman County public roads, highways, bridges, and ferries, and he shall during his employment, reside in Cullman County, Alabama.

Section 9. The County Commission may fill the position of county engineer with any person possessing the qualifications

herein required, and may request the state highway department to submit a list of such qualified persons.

Section 10. It shall be the duty of the said county engineer, subject to the approval and direction of the County Commission to:

(1) Employ, supervise and direct such assistants as are necessary to construct and maintain properly the county public roads, highways, and bridges;

(2) Perform such engineering and surveying services as may be required to prepare and maintain the necessary maps, plans and records;

(3) Maintain the necessary accounting records to reflect the cost of constructing and maintaining the county highway system; and

(4) Perform such other duties as are necessary and incident to the operation of the county highway system as directed by the county commission.

(5) It shall be his further duty, insofar as it is feasible, to construct and maintain all county roads on the basis of the county as a unit, without regard to any district, quadrant or beat lines.

Section 11. The county engineer is hereby designated as the person authorized to make written requisitions upon the county governing body of Cullman County or its duly designated purchasing agent for all articles, materials, supplies, and equipment necessary for the maintenance and construction of roads, bridges and ferries in Cullman County.

Section 12. All County Highway employees shall be compensated in substantial accordance with the state salary schedule for similar positions, provided that the county commission may adopt from time to time, in accordance with prevailing economic conditions, such scales of wages or salaries to be paid such employees as the Commission deems appropriate.

Section 13. The Cullman County governing body shall fix the amount of the salary of the county engineer, payable in equal monthly installments from the road and highway funds of Cullman County.

Section 14. Before entering upon his duties the Cullman County engineer shall make and enter into a surety bond in the amount of five thousand dollars (\$5,000.00) payable to Cullman County, conditioned for the faithful discharge and performance of his duties as such engineer, and for the faithful accounting of all

monies or property of the county, which may come into his possession or custody. The bond shall be executed by a surety company authorized and qualified to do business in Alabama, and shall be approved by the chairman of the Cullman County governing body. The premiums on the bonds shall be paid by the county.

Section 15. The Cullman County governing body shall furnish the county engineer with an office in the county, and all necessary office supplies, and shall furnish him with necessary transportation in connection with his duties under this Act.

Section 16. The county engineer shall be the custodian of all road tools, machinery, supplies and equipment of Cullman County; and he shall be accountable for the same, at all times. The Cullman County governing body shall furnish the necessary storage facilities in which to keep said tools, machinery, supplies and equipment, and the county engineer shall keep on file in his office, at all times, an up-to-date inventory, containing a list of all said tools, machinery, equipment, and supplies belonging to Cullman County.

Section 17. It shall be the duty of the county commission at some meeting in September of each calendar year, or not later than the first meeting in October next following, by order or resolution spread upon the minutes, to fix and determine the amount of funds which will be available for the purpose of building and maintaining public roads, bridges, and ferries of Cullman County for the current fiscal year, beginning on October 1. Provided, however, that the budget adopted pursuant to this section shall not conflict with the provisions of the Budget Act, Code of Alabama 1975, Section 11-8-3, which relates to limitation of expenditures.

Section 18. The county engineer shall make written requisitions to the chairman of the county governing body for all materials, machinery, equipment, and necessary supplies needed for the construction, maintenance and repair of the public roads, bridges and ferries of Cullman County. Said requisitions shall be filed and presented to the chairman of the county governing body at its next meeting for the approval of the governing body. Provided, however, that the chairman shall have full power and authority to make purchases without first obtaining the approval of the whole commission if the delay caused by the hereinabove procedure, might, in his judgment, cause an unnecessary and harmful interruption in the operation of the county road system.

Section 19. It shall be the further duty of the county engineer to inspect all materials, machinery, equipment, and supplies

purchased by Cullman County for use on public roads, bridges and ferries, when the same is delivered, and the same shall not be accepted and paid for without first having been approved by him.

Section 20. In the event an emergency should arise, in which it would be impossible for the Cullman County governing body to employ an engineer, as hereinabove provided for, then, in that event, the county governing body shall employ a competent road supervisor who need not be an engineer, but, when so employed, and he shall have all the duties and authority of said engineer, and be subject to the provision of this Act; but an emergency shall not exist so long as the state highway director can nominate an engineer who would accept employment by the governing body of Cullman County under the terms of this Act, it being the intention of this Act to provide that when county roads are to be maintained or constructed in said county, the supervision thereof shall either be under a county engineer, as hereinabove provided for, or a road supervisor, who is not a member of the county governing body.

Section 21. Nothing herein shall preclude the Cullman County governing body from entering into contracts with private individuals or entities pursuant to Alabama bid law for the repair, maintenance and construction of roads and bridges in Cullman County, and said governing body is hereby empowered to so contract if in its judgment such action would be in the best interest of the County.

Section 22. Due to the substantial increase in the duties and responsibilities required of the members of the Cullman County Commission due to the provisions of this Act, each respective Associate Commissioner shall receive a salary supplement of \$400.00 per month, and the Chairman of the Commission shall receive a salary supplement of \$455.00 per month which shall be in addition to any other salary or expense allowance otherwise provided by law and shall be paid from the Cullman County Treasury.

Section 23. Nothing herein shall be construed to prohibit the county commission from maintaining a comprehensive county vehicle and equipment maintenance system.

Section 24. The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not effect the part which remains.

Section 25. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 26. The Substantive provisions of this Act shall

become effective as provided by Section 1 hereof; however, the provisions of this Act authorizing the referendum and providing therefor shall become effective immediately upon this Act becoming a law.

Approved July 30, 1979

Time: 11:30 A.M.

Act No. 79-488

S. 364—Taylor and Goodwin

AN ACT

To further regulate the liquor traffic in Autauga County; to give the municipal governing bodies or the county commission the right and authority to suspend or revoke any license issued for the sale of alcoholic beverages; to make such suspension or revocation subject to review by the State Alcoholic Beverage Control Board.

Be It Enacted by the Legislature of Alabama:

Section 1. Each local governmental entity within Autauga County, whether it be a municipality or the County Commission, shall have the right and authority to suspend or revoke any license issued for the sale of alcoholic beverages which the local governmental entity approved for issuance to any hotel, restaurant, or club for any reason which the local governmental entity may deem sufficient and proper. This power to suspend or revoke such license shall be subject to the review of the State of Alabama Alcoholic Beverage Control Board.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:30 A.M.

Act No. 79-489

S. 523—Vacca, Cook, White and Hall

AN ACT

To further amend Section 11 of Act No. 497 of the Regular Session of the Legislature of Alabama of 1965 (Ala. Acts, 1965, pp. 717-739), as heretofore amended, which said Act established a pension system for officers and employees of

Jefferson County, Alabama.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 11 of Act No. 497 of the Regular Session of the Legislature of Alabama of 1965 (Ala. Acts, 1965, pp. 717-739), as heretofore amended, will provide as follows:

“Section 11. Joint Survivorship Pension Option.

“(a) The purpose of this Section 11 is to enable a member to provide for his widow or other dependents by accepting in lieu of the normal pension provided for by Section 10, above, a Joint Survivorship Pension payable so long as the member or his dependent lives. The Joint Survivorship Pension shall be in an amount less than the amount payable under said Section 10. The amount of the monthly income under this option shall depend upon several factors including the age and sex of the member and of the dependent named. By written request of any member filed with the Pension Board within the time specified in the next succeeding sentence, and upon compliance with such further conditions as may be set forth by the Pension Board and as may be applicable to the particular request, any member may elect to receive the Joint Survivorship pension in lieu of the pension provided for in Section 10, above. Such written application shall be filed with the Pension Board within the time specified by the rules the Pension Board adopts. The Pension Board may amend said rules from time to time.

“Following a member’s retirement he shall be entitled to receive the pension provided for him in his Joint Survivorship Option. Under the Joint Survivorship Option the monthly payments provided for thereby will be paid to the member, or to the dependent designated by such member, provided his dependent survives after the death of the member; and the payments will terminate with the last monthly payment preceding the second death. Under the Joint Survivorship Option no benefit shall be payable to a dependent of a member in the event the member dies prior to the date on which he becomes eligible and entitled to retire and receive a pension. It is provided, however, that if a member serves until he becomes eligible and entitled to receive a pension, the pension provided for his dependent under the Joint Survivorship Option shall be payable to the dependent following such member’s death, if the dependent survives, irrespective of whether the member retired prior to his death or remained in the service until his death.

“The amount of payments to members and the amount of payments to dependents under the Option shall be such amounts as shall be determined from tables or schedules adopted and

published, from time to time, by the Pension Board after the Board has considered the opinions and recommendations of an actuary or actuaries. The amounts paid under said Option shall be the actuarial equivalents of the pension provided for by Section 10.

“(b) Subject to the limitation stated in the sentence next following, subsection (b) of Section 11 of Act No. 497 of the Legislature of Alabama of 1965, as amended by Act No. 962 of the Regular Session of 1969, appearing on pages 1707, 1708 and 1709 of the Acts of Alabama of 1969, which provides for a member to obtain the Joint Survivorship Option by prepayment is hereby repealed. The repeal of said subsection (b) shall not impair, or affect in any way, the right of any member of the system who, prior to the repeal of said subsection (b), provided for in the next foregoing sentence, made the prepayment to obtain the Joint Survivorship Option.”

Section 2. This Act shall become effective on its approval by the Governor or on its otherwise becoming a law.

Approved July 30, 1979

Time: 11:30 A.M.

Act No. 79-490

S. 583—St. John

AN ACT

Providing an expense allowance for the chairman and members of the Winston County Commission.

Be It Enacted by the Legislature of Alabama:

Section 1. The associate members of the Winston County Commission shall be entitled to \$800.00 per month expense allowance. The chairman of the Winston County Commission shall be entitled to \$1,200.00 per month expense allowance. The provisions of this act shall be paid by warrant drawn on any funds in the county treasury available for such purposes according to law.

Section 2. The expense allowance provided for in this act shall be the total and sole expense allowance for said county officials and all laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:30 A.M.

Act No. 79-491

S. 584—St. John

AN ACT

Relating to Winston County; to provide for the disposition of proceeds of any coal and lignite severance tax distributed to the county by the state; to repeal Act Number 75, H. 50, 1978 Second Special Session, (Acts 1978, p. 1764).

Be It Enacted by the Legislature of Alabama:

Section 1. The proceeds of any coal or lignite severance tax distributed to Winston County by the state shall be distributed by the county governing body as follows:

(a) Fifty percent of the revenue shall be credited to the highway fund of Winston County.

(b) Fifty percent of the revenue shall be credited to the county general fund.

Section 2. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed, and Act No. 75, H. 50, 1978 Second Special Session, (Acts 1978, p. 1764) is hereby expressly repealed.

Section 4. This act shall become effective on the 1st day of the month following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:30 A.M.

Act No. 79-492

S. 585—Harrison

AN ACT

Relating to Elmore County; to alter, re-arrange and extend the boundary lines and corporate limits of the City of Millbrook in Elmore County, Alabama and to set the limits of the police jurisdiction.

Be It Enacted by the Legislature of Alabama:

Section 1. In Elmore County, the boundary lines and corporate limits of the City of Millbrook are hereby altered,

re-arranged and extended so as to include within the corporate limits of said city, in addition to the lands now included, all of the following territory, to-wit:

Beginning at the northwest corner of the northwest quarter of the northwest quarter of Section 20, Township 18 north, Range 17 east.

Thence easterly along the northern section lines a distance of 15,840 feet to the northeast corner of the northeast quarter of the northeast quarter of Section 22, Township 18 north, Range 17 east.

Thence southerly along the western section lines a distance of 10,560 feet to the southeast corner of the southeast quarter of the southeast quarter of Section 27, Township 18 north, Range 17 east.

Thence westerly along the northern section line a distance of 1,860 feet to the center of Fenn Road.

Thence southwesterly along the center of Fenn Road a distance of 700 feet to a point of intersection of Airport Road.

Thence along the center of Airport Road a distance of 240 feet to the intersection of Elmore Road and Oak Lane.

Thence south along Elmore Road and along a half section line a distance of 3,400 feet to the southwest corner of the northwest quarter of the southeast quarter of Section 34, Township 18 north, Range 17 east.

Thence east along the southern boundary of said quarter section a distance of 680 feet to a point.

Thence northerly and along the west side of Johnny Prince property a distance of 200 feet to the northwest corner of said property.

Thence easterly along the northerly boundary of Prince and the Church property a distance of 420 feet to a point.

Thence extending along the northerly boundary of said Church property in a northeasterly direction a distance of 20 feet to northeast corner.

Thence southeasterly a distance of 160 feet to the center of Coosada Road.

Thence southwesterly along the center of Coosada Road a distance of 320 feet to a point on the southern quarter section line of the northwest quarter of the southeast quarter of Section 34.

Thence east along said quarter section line a distance of 460

feet to the center of Callon Street in Plat No. 4 of Hughes Subdivision.

Thence northerly along the center of Callon Street a distance of 65 feet to a point in said subdivision.

Thence east along a lot line dividing lots 3 and 4 in Plat No. 4 and Plat No. 3 in Hughes Subdivision a distance of 350 feet to the back property line of Lot 15 in Plat No. 3 in said Hughes Subdivision.

Thence north along the back property line of Lot 15 of Plat No. 3 of Hughes Subdivision a distance of 40 feet to the southwest corner of Lot 16 of Plat No. 3 of Hughes Subdivision.

Thence easterly along the southern property line of Lot 16 of Plat 3 of Hughes Subdivision a distance of 190 feet to the center of Ray Street a distance of 200 feet to the center of intersection of Linda Drive.

Thence westerly along the center of Linda Drive a distance of 48 feet to a point.

Thence northerly along the west property line of Lot 1 of Plat No. 1 in Hughes Subdivision a distance of 150 feet of the Northwest corner of said lot.

Thence southeasterly along the northern property line a distance of 302.4 feet to a point.

Thence extending along said property line in an easterly direction a distance of 222.7 feet to the northeast corner of Lot 2 of Plat No. 1 of Hughes Subdivision.

Thence southerly along the east property line of Plat 1 of Hughes Subdivision and extending along the eastern section lines a distance of 17,500 feet to the southeast corner of the southeast quarter of the southeast quarter of Section 15, Township 17 north, Range 17 east.

Thence westerly along the northern section lines a distance of 10,780 feet to the center of intersection of Interstate 65.

Thence northwesterly along the center line of Interstate 65 a distance of 20,000 feet to the intersection of the Autauga County line.

Thence turning approximately 90 degrees northeasterly and running in a straight line a distance of 6,600 feet to the northeast corner of the northeast quarter of the northeast quarter of Section 31, Township 18 north, Range 17 east.

Thence northerly along the eastern section lines a distance of 10,560 feet to the point of beginning.

Section 2. The substantive provision of this act shall become operative only if the Act is approved by the qualified electors who reside within that part of the territory hereinabove described which is not presently included within the corporate limits of the City of Millbrook, voting in a referendum election to be held on a day designated by the Probate Judge of Elmore County, not less than ninety nor more than 120 days from the date of this enactment. The notice of the election shall be given by the Probate Judge of Elmore County, and the election shall be held, conducted and the results thereof canvassed in the manner prescribed by Chapter 42 of Title 11 of the Code of Alabama, 1975, for giving notice of and conducting elections on the question of annexing territory insofar as such provisions of said article may be appropriate; provided, however, no resolution of the municipal governing body need be made or filed with the Probate Judge, nor need a plat or map of the territory to be annexed be filed with the Probate Judge; The question shall be on the adoption of Act No. _____ of the 1979 Regular Session of the Legislature, which alters, re-arranges and extends the corporate limits of the City of Millbrook in Elmore County.

Each voter shall vote on voting machines prepared by the Probate Judge and providing a "yes" or "no" choice to the above question. The City of Millbrook shall pay all costs and expenses incident to the election, and shall enter into an agreement with the County Commission to prepare a poll list of voters in said area affected, and said poll list shall be published in "The Community Press," not less than 20 days prior to the election, and posted as otherwise provided by law.

The Probate Judge shall determine how many voting machines shall be necessary, and shall select poll officials from among the qualified voters of the affected area. The Probate Judge shall select no more than two poll watchers per machine, one from those nominated by the proponents of the issue and one by the opponents of the issue. Said poll watchers shall be governed in their actions by existing state law.

If the act is approved by the qualified electors in a referendum election, for a period of 20 years, the limits of the police jurisdiction shall be set to be the same as the city limits of said city.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law, except as otherwise herein provided.

Approved July 30, 1979

Time: 11:30 A.M.

Act No. 79-493

S. 592—Keener

AN ACT

Relating to Etowah County; providing for the salaries of the chairman of the county commission and the members of such commission.

Be It Enacted by the Legislature of Alabama:

Section 1. Upon the expiration of the present terms of office of the incumbent officeholders of Etowah County named hereinbelow, such officerholders shall receive the following annual salaries, payable in equal monthly installments from the general fund of the county:

Chairman of county commission	\$25,000
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Members of county commission	\$21,000
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The salaries herein provided, when they become effective, shall be the total compensation payable to such officeholders.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:30 A.M.

Act No. 79-494

S. 634—Teague

AN ACT

To regulate the expense allowances in the Thirtieth Judicial Circuit for district judges; and to provide for retroactive effect.

Be It Enacted by the Legislature of Alabama:

Section 1. The district judge of the Thirtieth Judicial Circuit, located in St. Clair County shall be entitled to receive an expense allowance in an amount equal to 90 percent of the total expense allowance and supplemental salaries paid by such county expense

allowance paid by such county to the circuit judges of said circuit, payable in monthly installments out of the general funds of St. Clair County in the Thirtieth Judicial Circuit. Such expense allowance shall be in addition to any and all other salary or compensation payable to such judge by the State of Alabama, but shall be in lieu of any and all other expense allowances heretofore payable to such judge by the county comprising the circuit.

Section 2. The expense allowances provided hereinabove shall be payable retroactively to January 1, 1979.

Section 3. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:30 A. M.

Act No. 79-495

H.J.R. 301—Venable

HOUSE JOINT RESOLUTION

PROVIDING A COMMON DATE FOR HOLDING ELECTIONS ON ALL CONSTITUTIONAL AMENDMENTS PROPOSED AT THE 1979 REGULAR SESSION OF THE LEGISLATURE WHEN A DATE NOT OTHERWISE SPECIFIED.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, that an election upon all constitutional amendments proposed by an act of the 1979 Regular Session of the Alabama Legislature is ordered to be held on the date of the 1980 Run-off Primary, unless the original act proposing the constitutional amendment sets the date to coincide with another state-wide primary or general election.

Approved July 30, 1979

Time: 11:30 A.M.

Act No. 79-496

H.J.R. 310—Hines

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF MRS. MARGHERITA LIGON SWIFT.

WHEREAS, the Legislature of Alabama has sorrowfully noted the death of Mrs. Margherita Ligon Swift, in Pensacola, Florida, on July 15, 1979, just shortly following her 90th birthday; and

WHEREAS, Mrs. Swift was the daughter of Doctors Ellen Barret and Greenwood Ligon of Mobile, Alabama, and was a graduate of the University of Alabama; and

WHEREAS, a resident of Atmore, Alabama, for most of her married life, she was the widow of G. Robin Swift, Sr., a former member of the Alabama House of Representatives, a former state senator, and a member also of the United States Senate, filling the unexpired term of Senator John Bankhead; Senator Swift further served as Director of the Alabama State Highway Department during the administration of Governor Chauncey Sparks; and

WHEREAS, Mrs. Swift was a kind and gracious lady, beloved of family and friends; she further was much admired and respected, as she was held dear, by all those privileged to have known her well; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most grievously mourn the death of Mrs. Margherita Ligon Swift and extend our deepest sympathy to the members of her family.

BE IT FURTHER RESOLVED, That copies of this resolution be sent to her daughters, Mrs. Carl E. Jones and Mrs. Geoffrey Norman, and to her son, G. Robin Swift, that they may know of our shared sorrow in the loss of their mother, a remarkable and gentle woman of notable stature.

Approved July 30, 1979

Time: 11:30 A.M.

THE NEEDS AND NECESSITIES OF OFF-CAMPUS BRANCHES OR CENTERS OF JUNIOR COLLEGES.

WHEREAS, the costs of state funding for off-campus branches and centers of junior colleges have escalated in recent years; and

WHEREAS, much controversy surrounds the extent and areas of duplication of services and curriculum to the communities and taxpayers; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby created a joint interim committee to be composed of three members of the House of Representatives and three members of the Senate, appointed by the presiding officer of each house. The chairman and vice chairman of the committee shall be elected at the first meeting by the members of the committee. The committee shall study all facets relating to the costs, curriculum, duplication of curriculum within the community, needs, necessities and any other pertinent matters pertaining to off-campus branches and centers of junior colleges. The committee shall have subpoena powers.

Upon the request of the chairman, the Secretary of the Senate and the Clerk of the House shall provide for such clerical assistance as may be necessary for the committee's work. The committee shall report its findings, conclusions and recommendations to the legislature not later than the fifth legislative day of the 1980 Regular Session, whereupon the committee shall be dissolved.

Each member of the committee shall be entitled to his regular legislative compensation, his per diem and travel expenses for each day he attends a meeting of the committee which shall be paid out of any funds appropriated to the use of the legislature, upon warrants drawn on the state comptroller upon requisitions signed by the committee's chairman; provided, however, that members shall not receive additional legislative compensation or per diem when the legislature is in session. The total of such expenses shall not exceed \$7500.

Approved July 30, 1979

Time: 11:30 A.M.

Act No. 79-498

H. 736—Kennedy (C), Buskey, Turner,
Harper (T), Stewart

AN ACT

Relating to Mobile County; to provide that any master plumber, journeyman plumber, plumber apprentice or other person qualified to perform plumbing work under the plumber licensing laws of Alabama shall be exempt from taking any further examination in order to obtain any county or municipal license to do business in such county or municipality.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall apply only to Mobile County, and provides that any master plumber, journeyman plumber, plumber apprentice or other person qualified to perform plumbing work under the plumbing licensing laws of Alabama shall be exempt from taking any further examination in order to obtain any county or municipal license to do business in such county or municipality. This bill shall not apply to the City of Mobile. This act is not intended to exempt said person from payment of fees or from doing all other things required for such licenses except the stated requirement of taking an examination.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:30 A.M.

Act No. 79-499

S. 235—Parsons

AN ACT

Relating to Jefferson County; to amend Act No. 261, H. 1462, Regular Session, 1975, (Acts of 1975, p. 795) an act fixing supplemental salaries for each District Court Judge in Jefferson County, Alabama.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of said Act No. 261 is hereby amended to read as follows:

"Section 1. There shall be paid to each District Court Judge in Jefferson County, Alabama, as supplemental salary to that paid by the State, in equal bi-weekly installments, such sums as the County Commission or other governing body of the County may from time to time determine to be necessary to make the annual salary of each District Court Judge in Jefferson County, Alabama, to be not less than \$29,500.00 nor more than the annual salary paid to said Judges

by the State of Alabama plus 40% thereof."

Section 2. The provisions of this Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:30 A.M.

Act No. 79-500

S. 598—Weeks

AN ACT

Relating to Pike County; to provide an additional expense allowance for the coroner of such county.

Be It Enacted by the Legislature of Alabama:

Section 1. The coroner of Pike County shall receive an additional expense allowance up to \$250.00 per month, payable in equal monthly installments out of the county general fund. Said monies shall be in addition to any and all other salary or compensation heretofore prescribed for such officer.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:30 A.M.

Act No. 79-501

S. 620—McDonald

AN ACT

To provide for the distribution of payments in lieu of taxes by Tennessee Valley Authority of the United States Government made to Limestone County pursuant to Act No. 92 of the 1978 Alabama Legislature, approved August 7, 1978, 1978 Acts of Alabama, Page 1787, among the various governmental units, schools, and hospital in Limestone County which receive distributions of ad valorem tax revenues.

Be It Enacted by the Legislature of Alabama:

Section 1. Upon receipt by Limestone County of funds pursuant to Act No. 92 of the 1978 Alabama Legislature, approved August 7, 1978, 1978 Acts of Alabama, Page 1787, Limestone County will, within a reasonable time thereafter, distribute said

funds so received as follows:

Limestone County General Fund 23.70%.
 Limestone County Road and Bridge Fund 11.82%.
 Athens-Limestone Hospital Association 9.45%.
 County-Wide School Fund 19.33%.
 School-District I 8.35%.
 School-District II 6.06%.
 City of Athens 20.10%.
 City of Ardmore .78%.
 City of Elkmont .33%.
 City of Mooresville .05%.
 City of Lester .03%.

Section 2. The foregoing schedule of distributions shall apply to all funds received by Limestone County pursuant to said Act of 1978 Alabama Legislature within a period of two years from the date this Act shall become a law.

Section 3. All laws or parts of laws that are in conflict with any of the provisions of this Act are, to the extent of such conflict, repealed.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:30 A.M.

Act No. 79-502

S. 622—Britnell

AN ACT

To repeal Act No. 1220, S. 618, Regular Session 1973, (Acts 1973, p. 2068) entitled "An Act To authorize the Tax Assessor, Tax Collector, and Clerk of the Circuit Court, Circuit Judge, Judge of Probate Court and Judge of the Intermediate Court in all counties having a population of not less than 23,900 nor more than 24,450 to hire clerical assistants, to set the compensation of such assistants, and to provide that the salaries of such assistants be paid from the general funds of such Counties."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1220, S. 618, Regular Session 1973, (Acts

1973, p. 2068) entitled "An Act To authorize the Tax Assessor, Tax Collector, and Clerk of the Circuit Court, Circuit Judge, Judge of Probate Court and Judge of the Intermediate Court in all counties having a population of not less than 23,900 nor more than 24,450 to hire clerical assistants, to set the compensation of such assistants, and to provide that the salaries of such assistants be paid from the general funds of such Counties," is hereby specifically repealed.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:30 A.M.

Act No. 79-503

S. 623—Britnell

AN ACT

Relating to Franklin County; to authorize the tax assessor, tax collector and Judge of Probate to hire clerical assistants, to assist him in the performance of his duties.

Be It Enacted by the Legislature of Alabama:

Section 1. In Franklin County, the tax assessor, tax collector and Judge of Probate each are hereby authorized to appoint not less than one (1) clerk and any additional clerks to assist him in the performance of his duties. Such clerks as are appointed under the provisions of this act shall serve at the pleasure of the officer making such appointment.

Section 2. Such clerks as are appointed under the provisions of this act shall be paid a salary to be fixed by the county commission. Such salary to be set in accordance with adopted county personnel policy to be paid out of the county general fund. The County Commission is hereby authorized to increase the number of clerks in the aforesaid offices when in the judgment of the commission that a need exists.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:30 A.M.

Act No. 79-504

S. 624—Britnell

AN ACT

Relating to Franklin County; providing further for the compensation of election officials.

Be It Enacted by the Legislature of Alabama:

Section 1. Each election official of Franklin County shall receive twenty dollars (\$20.00) per day for the performance of his official duties and five dollars (\$5.00) for one day election school attendance. The county commission of Franklin County shall supplement the compensation already provided by the general law of the state with funds out of the county general fund sufficient to bring said compensation up to the amount provided for by this act, including the one day election school attendance, provided, however, in any municipal election in which the official serves, the supplement provided for herein, shall be paid by the municipality in which such election is held.

Section 2. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed and Act No. 941, H. 1364, Regular Session 1969 (Acts 1969, p. 1677), is specifically repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:30 A.M.

Act No. 79-505

S. 611—McDonald

AN ACT

Relating to Marion County; to provide for a cost of living adjustment for certain officials in Madison County; and to provide that Sections 1, 2 and 3 of this act relating to the increase in compensation of certain county officials shall be effective only if all full time county employees and deputy sheriffs have been provided the same percentage increase as elected officials.

Be It Enacted by the Legislature of Alabama:

Section 1. Effective immediately upon the passage of this act and each succeeding year thereafter, effective on the first Monday

after the second Tuesday of January until their present term of office expires, the following named officials of Madison County may receive up to a seven and one-half percent (7½%) cost of living increase per annum: Tax Collector, Tax Assessor, Sheriff, Probate Judge, Coroner, Board of Education Members, Chairman of the County Commission and County Commissioners. Salaries shall not be adjusted so as to exceed the salaries stipulated in Section 2.

Section 2. Effective at the beginning of the next term of office those elected officials designated in Section 1 shall receive the following salaries per annum:

Tax Collector	\$24,500
Tax Assessor	24,500
Sheriff	26,500
Probate Judge	28,500
Coroner	4,800
Board of Education Members	1,800
Chairman, County Commission	28,500
County Commissioners	22,000

Section 3. The provisions of Sections 1 and 2 of this act shall be effective only if all full time Madison County employees and deputy sheriffs that are paid 100% from the general fund of said county have been provided a per annum percentage increase in cost of living equal to the highest percentage increase paid to any elected official designated in Section 1.

Section 4. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this act are hereby repealed.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:30 A.M.

Act No. 79-506

H.J.R. 270—Campbell, Crow, Willis,
Blake, Dial, Cabaniss

HOUSE JOINT RESOLUTION

CONGRATULATING AND COMMENDING TENNIS
STAR PATRICK DU PRE, FORMERLY OF ANNISTON AND
BIRMINGHAM, ALABAMA.

WHEREAS, Patrick Du Pre, though a native of Belgium and now a resident of La Jolla, California, formerly lived both in Anniston and in Birmingham, Alabama, and his parents, Mr. and Mrs. Jules Du Pre still reside in Anniston; he is a graduate of Mountain Brook High School and of Stanford University in California; and

WHEREAS, awarded an athletic scholarship by Stanford, Pat was a member of the university's tennis team and was named All-American; he is now in his third year as a professional and has reached finals play in numerous tournaments including those held in Tokyo, Mexico, Taiwan and Hong Kong and also reached the finals in the Colgate Grande Prix in Tulsa as well as in Mexico; and

WHEREAS, in the recent Wimbledon Championships, one of the most prestigious tennis tournaments in the world, Pat Du Pre was a semi-finalist, the highest finish ever for an Alabamian at Wimbledon; and

WHEREAS, of special significance is the fact that in March, 1978, Pat, who is only 24, was ranked number 100 in the world but his pre-Wimbledon ranking of 38 denotes a phenomenal rise in just slightly more than one year; he also was honored for outstanding sportsmanship on a recent nationally-televised Bob Hope Special; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly commend Patrick Du Pre on his outstanding and potentially brilliant career in Professional Tennis and most heartily congratulate him as a semi-finalist at Wimbledon.

BE IT FURTHER RESOLVED, That Mr. Du Pre, as well as his parents, receive copies of this resolution that they may know of our praise and esteem of our deep pride in Pat as an Alabamian.

Approved July 30, 1979

Time: 11:30 A.M.

Act No. 79-507

H.J.R. 276—Seibels

HOUSE JOINT RESOLUTION

EXPRESSING APPRECIATION TO THE MARINE PARTICIPANTS IN THE LEGISLATURE'S FLAG DAY CEREMONIES.

WHEREAS, on June 14, 1979, during Legislative Flag Day ceremonies, those present in the House Chamber were profoundly moved by the presentation and retirement of the Colors by a detachment of United States Marines; and

WHEREAS, Captain Dale M. Papworth and First Sergeant Robert E. Parker arranged for the color guard which was composed of Staff Sergeants Dennis D. Dalton and Jerry D. Donald and Sergeants William L. Martin and Lyvord Swain of a detachment of Lima Company, Third Battalion, 23rd Marines, Fourth Marine Division, affectionately known as the "Montgomery Marines"; and

WHEREAS, in patriotic response to the importance of Flag Day, these gentlemen both willingly and enthusiastically accepted Mayor Seibels' invitation, and their performance, truly in keeping with the finest tradition of the Corps, was faultless in every detail; and

WHEREAS, following their stirring presentation of the Colors, executed to perfection, they respectfully remained at attention throughout the entire ceremony to retire with a dignity and with a solemnity that inspired awe in the hearts of all those in attendance; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby express heartfelt appreciation to the color guard of the "Montgomery Marines" for their splendid performance on June 14, 1979.

BE IT FURTHER RESOLVED, That a copy of this resolution, to be used for appropriate display, be sent to Captain Papworth on behalf of his detachment and as evidence of our praise of their outstanding performance.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-508

H.J.R. 279—Sandusky, Waggoner

HOUSE JOINT RESOLUTION

JOINT RESOLUTION RECOGNIZING THE CENTENNIAL OF STANDARD OIL COMPANY OF CALIFORNIA AND THE CONTRIBUTIONS THE COMPANY HAS MADE TO OUR STATE AND NATION IN ITS FIRST 100 YEARS.

WHEREAS, 1979 marks the completion of 100 years of operation by Standard Oil Company of California, and

WHEREAS, the Company has grown from a provider of petroleum in the far West to a major supplier of petroleum energy for the Nation as a whole and for the entire Free World, and

WHEREAS, the Company, responding to societal needs, has traditionally participated in a broad variety of projects that improve the quality of life in the communities where it operates, and

WHEREAS, the Company has long-standing and extensive programs to further education and stimulate cultural enrichment, and

WHEREAS, over the years the Company has supported positive and balanced conservation of all natural resources, and taken precautions reasonably necessary to protect the environment wherever the Company operates, and

WHEREAS, since 1961, Standard Oil Company of California has been an active member of the business community of the State of Alabama, and

WHEREAS, the Company contributes to the economy with its payroll, purchase of goods and services, dividends to stockholders and taxes; now, therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, Both Houses thereof concurring, That on the occasion of its centennial, we do hereby recognize the many economic and social contributions which the Standard Oil Company of California has made to the State of Alabama and to the Nation as a whole.

BE IT FURTHER RESOLVED, that copies of this resolution be furnished to the President of Standard Oil Company of California and to members of the Capitol Press Corps.

Approved July 30, 1979

Time: 11:45 A.M.

HOUSE JOINT RESOLUTION

REQUESTING THE DEPARTMENT OF YOUTH SERVICES TO IMPLEMENT A FIVE-YEAR PLAN THAT WILL SET FORTH PROCEDURES TO PROVIDE THE SERVICES AND TO ACCOMPLISH THE RESPONSIBILITIES OF THAT DEPARTMENT AS SPECIFIED BY LAW.

WHEREAS, in accordance with Section 44-1-1, Code of Alabama 1975, the Department of Youth Services is charged with the responsibility “. . . to promote and safeguard the social well-being and general welfare of the youth of the state through a comprehensive and coordinated program of public services for the prevention of juvenile delinquency and the rehabilitation of delinquent youth”; and

WHEREAS, because of the complexities of the Department of Youth Services, a well-defined long-range plan is a necessity, and it has been several years since such a long-range plan has been conducted; and

WHEREAS, the various campuses in the Department of Youth Services are unsure as to what direction the programs under their supervision will take in the next five years; and

WHEREAS, the people of the various communities where the Department of Youth Services campuses are located do not know what programs are planned for their communities; and

WHEREAS, not only are the youthful offenders of this state dependent upon the Department of Youth Services for better opportunities for a successful life, but the people of Alabama also are dependent upon the Department for the correction and care of these youthful offenders; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby request the Department of Youth Services to implement a five-year plan that will set forth procedures to provide the services and to accomplish the responsibilities of that Department as specified by law. This plan shall:

(a) Define the role and mission of the Roebuck, Chalkville and Mount Meigs campuses and shall list and define all programs to be offered at each campus;

(b) define the relationship between the various campuses and the Department of Youth Services;

(c) define the services and responsibilities of the Department

of Youth Services as required by this law.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to the Director of the Department of Youth Services that he and his staff may immediately take action to comply with this request, with copies also provided for each member of the Legislature, the Governor, Lieutenant Governor, each member of the Youth Services board, directors of the Roebuck, Chalkville and Mount Meigs campuses and the chairman of the Advisory Board of each campus.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-510 H.J.R. 288—Moore, Adams, (C), Adams, (H), Albright, Amari, Barton, Bedsole, Bennett, Biddle, Blake, Boles, Bowling, Brakefield, Buskey, Cabaniss, Campbell, Carothers, Carter, Cates, Cheatwood, Clark, Cobb, Coburn, Cooley, Cosby, Crow, Daniels, Dial, Dixon, Drinkard, Edwards, Ford, Gafford, Gilmer, Goodwin, Greer, Gregg, Grimsley, Grouby, Hall, Hammett, Harper, (O), Harper, (T), Harrison, Harvey, Hilliard, Hines, Holley, Holmes, Horn, Howard, Jackson, Johnson (R.G.), Johnson (Roy), Kelley, Kennedy, (C), Kennedy, (Y), Laird, Langford, Letson, Lewis, McCorquodale, McMillan, Manley, Minus, Mitchell, Naramore, Nevett, Olive, Owens, Parker, Patton, Payne, Pegues, Penry, Rains, Ray, Reed, Riddick, Roberts, Sandusky, Sasser, Seibels, Shavers, Shoemaker, Smith (C), Smith (J), Smith (M), Starkey, Stewart, Stout, Trammell, Tucker, Turner, Turnham, Venable, Waggoner,

Ward, Warren, Whatley,
Williams, Willis, Wyatt, Zoghby,
McKee

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF MR. CLAUDE J. MARTIN.

WHEREAS, the Alabama legislature notes with a sense of deep regret the passing of Claude J. Martin, father of our esteemed colleague, former member of the House of Representatives, State Senator Charles Martin; and

WHEREAS, Claude J. Martin, a native of Fayette County, Alabama, and a resident of Decatur, Alabama, was a devoted community builder who served the people of Huntsville and Decatur with great dedication and conscientiousness; and

WHEREAS, Mr. Martin was a retired Police Lieutenant from the Huntsville Police Force, where he served with honor; and

WHEREAS, Claude J. Martin made many civic contributions to his community and was a Mason with membership in the Rising Sun Lodge No. 29, Decatur, Alabama; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we express our heartfelt sympathy to: our colleague and friend, Senator Charles Martin on the death of his father; his widow, Mrs. Annie Jones Martin; and to his son, Mr. William J. Martin, and to his grandchildren and great grandchildren, to whom copies of this resolution shall be sent.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-511

H.J.R. 290—Manley

HOUSE JOINT RESOLUTION

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That when we adjourn today, Tuesday, July 17, 1979, we adjourn to meet again on Wednesday, July 18, 1979; when we adjourn on Wednesday, July 18, 1979, we adjourn to meet again on Thursday, July 19, 1979; when we adjourn on Thursday, July 19, we adjourn to meet again on Monday, July 30, 1979; and when we adjourn on Monday, July 30, 1979, we adjourn sine die.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-512 H.J.R. 291—Biddle, Adams, (C), Adams, (H),
 Albright, Amari, Barton, Bedsole,
 Bennett, Blake, Boles, Bowling,
 Brakefield, Buskey, Cabaniss,
 Campbell, Carothers, Carter,
 Cates, Cheatwood, Clark, Cobb,
 Coburn, Cooley, Cosby, Crow,
 Daniels, Dial, Dixon, Drinkard,
 Edwards, Ford, Gafford, Gilmer,
 Goodwin, Greer, Gregg, Grimsley,
 Grouby, Hall, Hammett,
 Harper, (O), Harper, (T),
 Harrison, Harvey, Hilliard, Hines,
 Holley, Holmes, Horn, Howard,
 Jackson, Johnson (R.G.),
 Johnson, (Roy), Kelley,
 Kennedy, (C), Kennedy, (Y), Laird,
 Langford, Letson, Lewis,
 McCorquodale, McKee, McMillan,
 Manley, Minus, Mitchell, Moore,
 Naramore, Nevett, Olive, Owens,
 Parker, Patton, Payne, Pegues,
 Penry, Rains, Ray, Reed, Riddick,
 Roberts, Sandusky, Sasser,
 Seibels, Shavers, Shoemaker,
 Smith (C), Smith (J), Starkey,
 Stewart, Stout, Trammell, Tucker,
 Turner, Turnham, Venable,
 Smith (M), Ward, Warren,
 Whatley, Williams, Willis, Wyatt,
 Zoghby

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF SCOTT MITCHELL WAGGONER OF BIRMINGHAM, ALABAMA.

WHEREAS, the Legislature of Alabama is deeply shocked and saddened by the untimely, accidental death of young Scott Mitchell Waggoner, beloved son of Marilyn and Jabo Waggoner, on July 15, 1979, in Birmingham, Alabama; and

WHEREAS, Scott, who was just eighteen years old at the time of his death, was a 1979 graduate of Vestavia Hills High School; a member of his school's varsity football team, Scott held the Vestavia Hills record for rushing, was named as a senior to the All Independent team by the *Birmingham News*, received honorable mention on the All County team, was voted captain of his team which finished second in the state 4A playoffs, and had been awarded an athletic scholarship by Jacksonville State University; and

WHEREAS, Scott Waggoner, a sincere and professed Christian, was a member of the Homewood Church of Christ, and was an outstanding young man with extraordinary potential for leadership, success and service to others as a responsible and contributing citizen of our state; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That, even as we give thanks for his life, we grievously mourn the death of Scott Mitchell Waggoner of Birmingham, Alabama.

BE IT FURTHER RESOLVED, That, in love and concern for them, copies of this resolution shall be sent to his parents, our colleague Jabo Waggoner and his wife Marilyn, also our good friend, and to Scott's sister and brothers, Lyn, Mark and Jay, and to other family members, that they may know of our shared sorrow in their time of great loss.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-513 H.J.R. 294—Bennett, Amari, Seibels, Horn,
Boles, Trammell, Cabaniss, Payne,
Biddle, Moore, Lewis, Cheatwood

HOUSE JOINT RESOLUTION

COMMENDING KATHY PICKETT, MISS ALABAMA, 1979.

WHEREAS, Kathy Pickett was named Miss Alabama from a field of 54 contestants in statewide competition in Birmingham June 16, and

WHEREAS, Miss Pickett, a 26 year old Birmingham-Southern College graduate from Mulga, was first runner-up for the title in 1977 and 1978, and

WHEREAS, Miss Pickett has studied opera at the New York City Opera, the Metropolitan Opera and the Julliard School of Music, and

WHEREAS, She has been a part of the European Touring Choir of Columbia Artists and was feature soloist for the Bob Hope Spectacular in Birmingham in 1977, and

WHEREAS, the five foot five inch Jefferson County beauty will represent Alabama in the Miss America Pageant in Atlantic City in September, and

WHEREAS, Alabama has not had a Miss America since Yolande Betbeze in 1950, now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, both houses thereof concurring, that we commend Miss Pickett on her selection as Miss Alabama and wish for her the best in the upcoming Miss America Pageant, and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to Miss Pickett and to the State Director of the Miss Alabama Pageant, Mrs. Nora Chapman.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-514

H. 755—Coburn, Greer, Starkey

AN ACT

Relating to Lauderdale County; to further amend Act No. 296 enacted at the 1949 Regular Session of the Legislature of the State of Alabama, as amended by Act No. 470 enacted at the 1959 Regular Session of the Alabama Legislature, and as further amended by Act No. 548 enacted at the 1975 Regular Session of the Alabama Legislature, relative to privilege or license taxes and excise taxes levied by said Act No. 296 in Lauderdale County outside the city limits of the City of Florence and in the City of Florence, Lauderdale County, by amending Section 11 of said Act No. 296 to provide that all revenues arising from the taxes thereby levied applicable to Lauderdale County outside the city limits of the City of Florence shall be used exclusively for public school purposes and solely for capital outlay, construction and maintenance of the county public schools of Lauderdale County, provided that in the event the Governor shall restrict allotments of educational appropriations made by the Legislature to prevent an overdraft or deficiency in any fiscal year for which such educational appropriations are made by prorating the available revenues among the various departments, boards, bureaus, commissions, agencies, offices and institutions of the State, the said revenues from the tax levied by said Act No. 296 applicable to Lauderdale County outside the city limits of the City of Florence may, in the discretion of the County Board of Education of Lauderdale County, also be used in such fiscal year for general educational purposes, including the payment of

teachers' salaries, other current school expenses and the cost of school transportation; subject, however, to all pledges of the revenues from said taxes heretofore or hereafter made to Warrants or other obligations of the County Board of Education of Lauderdale County; and to amend Section 12 of Act No. 296 to provide that all revenues arising from the tax thereby levied applicable to the City of Florence shall be used exclusively for public school purposes and solely for capital outlay, construction and maintenance of city public schools and the payment of teachers' salaries and other current school expenses, including costs of school transportation, subject, however, to all pledges of the revenues from said taxes heretofore or hereafter made to Warrants or other obligations of the City Board of Education of the City of Florence.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 11 of Act No. 296 adopted by the 1949 Regular Session of the Legislature of the State of Alabama, as amended by Act No. 470 of the 1959 Regular Session of the Legislature of the State of Alabama, and as further amended by Act No. 548 of the 1975 Regular Session of the Legislature of the State of Alabama, is hereby amended to read as follows:

"Section 11. All revenues arising from the taxes hereby levied applicable to Lauderdale County outside the city limits of the City of Florence shall be used exclusively for public school purposes and solely for capital outlay, construction and maintenance of the county public schools in Lauderdale County, provided, however, that in the event the Governor restricts allotments of educational appropriations made by the Legislature to prevent an overdraft or deficiency in any fiscal year for which appropriations are made by prorating the available educational revenues among the various departments, boards, bureaus, commissions, agencies, offices and institutions of the State, the revenues from the taxes hereby levied applicable to Lauderdale County outside the city limits of the City of Florence may, in the discretion of the County Board of Education of Lauderdale County, also be used in such fiscal year for general educational purposes, including the payment of teachers' salaries, other current school expenses and the costs of school transportation; subject, however, to all pledges of the revenues from said taxes heretofore or hereafter made to Warrants or other obligations of the County Board of Education of Lauderdale County."

Section 2. Section 12 of Act No. 296 adopted by the 1949 Regular Session of the Legislature of the State of Alabama, as heretofore amended, is hereby amended to read as follows:

"Section 12. All revenues arising from the taxes hereby levied applicable to the City of Florence in Lauderdale County shall be used exclusively for public school purposes in the City of Florence, including capital outlay, construction and maintenance of city public schools and the payment of teachers' salaries and other

current school expenses, including the costs of school transportation; subject, however, to all pledges of the revenues from said taxes heretofore or hereafter made to Warrants or other obligations of the City Board of Education of the City of Florence.”

Section 3. All laws or parts of laws which conflict with any provision of this Act are hereby repealed.

Section 4. If any section, clause or provision of this Act shall be, or be declared to be, invalid, this shall not affect any other section, clause or provision hereof not in itself invalid.

Section 5. This Act shall take effect immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-515

H. 603—Brakefield, Naramore

AN ACT

Relating to Walker County; to allow tax assessment on a year-round basis and to require the probate judge to make available to the tax assessor any deed recording transaction within 30 days of the recording date.

Be It Enacted by the Legislature of Alabama:

Section 1. In Walker County, the tax assessor shall have the right and authority at any time during the year to make an assessment of any lot or parcel of land, together with the improvements thereon, assessing the same to the party last assessing said property as shown by the tax assessor’s records in the county, or to the owner of record. The assessment shall show a description of the property assessed, the name of the owner to whom said property is assessed, the assessed valuation for the preceding tax year and such other information as the assessor deems proper for the proper assessment of said property.

Section 2. The probate judge of Walker County shall make available to the tax assessor any deed recording transaction within 30 days of the recording date.

Section 3. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-516

H. 702—Moore, Smith (C)

AN ACT

Relating to Shelby County, to repeal Act No. 700, H. 737, 1976 Regular Session (Acts of Alabama 1976, p. 967), which act provides for the rehabilitation of Shelby County prisoners through work-release and other programs.

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 700, H. 737, 1976 Regular Session (Acts of Alabama 1976, p. 967), is hereby repealed and shall have no further force or effect of law.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-517

H. 721—Sasser, Ray, Grimsley,
Whatley

AN ACT

To authorize and require the City of Eufaula located in Barbour County to fix rules and regulations for the sale of alcoholic beverages within the premises of any state park located in such City.

Be It Enacted by the Legislature of Alabama:

Section 1. The governing body of the City of Eufaula located in Barbour County shall have the authority and the duty to fix reasonable rules and regulations for the sale of alcoholic beverages by licensees of the Alabama Alcoholic Beverage Control Board within the premises of any state park located in the corporate limits

of such city, including rules and regulations as to times and places wherein alcoholic beverages may be sold within any such state park, and the types of meetings and functions at which the same may be sold.

Section 2. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-518

H. 802—Starkey

AN ACT

Relating to Lauderdale County; to amend Act 457, H. 1055, 1975 Regular Session (Acts 1975, p. 1084) which relates to parking facilities near the county courthouse so as to further regulate said parking facilities.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 3 of Act No. 457, H. 1055, 1975 Regular Session (Acts 1975, p. 1084) is hereby amended to read as follows:

“Section 3. The violation of any provisions of this act shall constitute a misdemeanor and the fine therefor shall be set at \$3.00 plus court costs; provided, that in the event said fine is voluntarily paid within ten days from the date of such violation, no court costs nor any other fees shall be charged in connection therewith. Persons violating any provisions of this act shall pay their fines and court costs to the circuit court clerk. All monies collected as fines shall be paid to the Lauderdale County general fund each month. Court costs shall be disbursed as provided by law. In the event said fine is not paid within ten days from the date of such violation, the deputy shall proceed to handle said case as in other traffic cases made by the sheriff of said counties. Said cases shall be tried in district court and shall be prosecuted by the district attorney.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-519

H. 897—Starkey, Greer

AN ACT

Relating to Lauderdale County, providing that the Probate Judge shall appoint one or more regular clerks in the probate office as deputy registrars empowered to take applications for voter registration at any time the probate office is open for business.

Be It Enacted by the Legislature of Alabama:

Section 1. The Probate Judge of Lauderdale County shall appoint one or more regular clerks in the probate office as deputy registrars empowered to take applications, testimony and oaths of applicants for voting registration at any time the probate office is open to the public for business. Such application shall then be submitted to the Board of Registrars at their next meeting and the board shall notify the applicants in writing of their action on said application.

Section 2. The Board of Registrars is hereby authorized and empowered to promulgate such rules and regulations necessary to carry out the provisions of this act.

Section 3. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this act are hereby repealed.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-520

H. 902—Greer, Coburn

AN ACT

To repeal Act No. 247, H. 937, approved August 6, 1976, Regular Session 1976

(Acts 1976, p. 285), entitled, "An Act Relating to the counties having a population of not less than 65,000 nor more than 75,200 inhabitants according to the most recent federal decennial census; authorizing the governing body of such counties to authorize the Sheriff of the county to employ a cook at the jail, empowering the governing body of the county to fix the compensation of such cook and providing for the payment thereof out of the general funds of the county, retroactive to January 1, 1975."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 247, H. 937, approved August 6, 1976, Regular Session 1976 (Acts 1976, p. 285), entitled, "An Act Relating to the counties having a population of not less than 65,000 nor more than 75,200 inhabitants according to the most recent federal decennial census; authorizing the governing body of such counties to authorize the Sheriff of the county to employ a cook at the jail, empowering the governing body of the county to fix the compensation of such cook and providing for the payment thereof out of the general funds of the county, retroactive to January 1, 1975," is hereby expressly repealed.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-521

H. 903—Greer, Coburn

AN ACT

Relating to Lauderdale County; authorizing the governing body of said county to authorize the Sheriff of the county to employ a cook at the jail; empowering the governing body of said county to fix the compensation of such cook and providing for the payment thereof out of the general funds of the county.

Be It Enacted by the Legislature of Alabama:

Section 1. The Lauderdale County's County Commission, or other like governing body of said county, is hereby authorized and empowered to authorize the Sheriff of the county to employ a cook at the county jail, which cook shall serve at the pleasure of said Sheriff.

Section 2. Such cook employed under the provisions of this Act shall receive such salary as may, from time to time, be fixed and

allowed by said County Commission or other like governing body of the county. Said salary shall be paid in equal monthly or semimonthly installments out of the general fund of said county.

Section 3. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-522

H. 397—Manley, Pegues

AN ACT

Relating to Marengo County; to provide for the mileage allowance of the county coroner, to make this act retroactive.

Be It Enacted by the Legislature of Alabama:

Section 1. The county commission of Marengo County is hereby authorized and empowered to set the mileage allowance for the county coroner at ten cents (\$.10) per mile.

Section 2. Said mileage allowance shall be paid out of the county general fund.

Section 3. This act shall be retroactive to October 1, 1976.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-523

H. 426—Moore

AN ACT

Relating to the eighteenth judicial circuit of Alabama; to amend the title and Section 1 of Act No. 119, H. 52, 1975 Third Special Session (Acts of 1975, p. 347), entitled "An Act To provide an expense allowance to the official court reporter, for Circuit Judge Place No. 1 of the eighteenth judicial circuit of Alabama payable by the counties composing said circuit" as last amended, so as to provide an expense

allowance to the official court reporter for Circuit Judge Place No. 3 of the eighteenth judicial circuit of Alabama.

Be It Enacted by the Legislature of Alabama:

Section 1. The title and Section 1 of Act No. 119, H. 52, 1975 Third Special Session (Acts of 1975, p. 347) as last amended, are hereby amended to read as follows:

To provide an expense allowance to the official court reporters for Circuit Judge Place No. 1 and No. 2 of the eighteenth judicial circuit of Alabama payable by the counties composing said circuit, and to provide for an expense allowance for the official court reporters for Circuit Judge Place No. 3.

"Section 1. In addition to all other allowances and compensation now provided by law, there shall be paid to each of the official court reporters for Circuit Judge Place No. 1, Circuit Judge Place No. 2, and Circuit Judge Place No. 3 of the eighteenth Judicial circuit of Alabama in equal monthly installments, an allowance of \$2400 per annum, for the purpose of defraying the expenses of such official court reporters in the performance of their official duties. The allowances provided for herein for the official court reporters for Circuit Judge Place No. 1 and Place No. 2 and No. 3 shall be paid from the general funds of the counties composing the circuit on a pro rata basis calculated upon the population of the county in relation to the whole circuit; the allowance for the official court reporter for Circuit Judge Place No. 3 shall not include any funding from Clay County.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-524

H. 607—Moore, Waggoner

AN ACT

To provide for a personnel board for employees of county law enforcement officers in Shelby County; to provide for the compensation, terms of office and compensation for members of said board; to authorize the board to regulate, by promulgation of rules and regulations, appointments, qualifications, tenures, salaries, promotions and dismissals of said employees; to provide for the duties and functions of the board; to provide for a hearing and appeal procedure for employees who have had disciplinary action taken against them; to provide a procedure for the board for accepting and filing applications for employment within county law

enforcement offices and providing for the appointment of qualified applicants to such positions; to provide for a procedure for hearing complaints within the various law enforcement offices; to grant certain powers of deposition and subpoena to the board for the facilitation of the board's hearings and investigations; to provide that all meetings of the board shall be open to the public; to provide appeal to the circuit court for adverse decisions of the board; to prohibit employees under control of the board from participating in certain political activities; to provide that the board's expenses of operation shall be financed from the proceeds of an additional tax on county sales of beer and brewed beverages enacted at the 1977 legislative session; to provide a procedure whereby municipalities may come under the provisions hereof; to provide penalties for violations of any provisions of the act; to repeal conflicting laws; and to provide for its effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. The provisions of this act shall apply only in Shelby County, Alabama.

Section 2. As used in this act, unless the context clearly requires a different meaning: "city" means any municipality employing law enforcement officers in Shelby County; "employee" means any person, not excepted by Section 3 of this act who is employed in the service of any city or the county in Shelby County within the various law enforcement departments; "board" means the Shelby County Law Enforcement Personnel Board created by this act; "appointing authority" in the case of municipal employees means elected officers, where applicable, otherwise the applicable municipal governing body; and in the case of county employees, the sheriff, or other elected officials vested with powers to appoint law enforcement employees as provided by law.

Section 3. The provisions of this act shall apply to all law enforcement employees of Shelby County but shall not apply to the following persons: (a) elective officers of the county or any municipality therein; (b) members of county or municipal appointive boards, commissions and committees; (c) all employees of county or municipal boards of education engaged in the profession of teaching or in supervising teaching in the public schools; (d) the judge of any court; (e) any employee of the United States government or any agency thereof; (f) any employee of the State of Alabama or any departments therein; and (g) the chief deputy in the sheriff's department.

Section 4. All employees covered under this act shall be governed by such rules and regulations as may be prescribed or promulgated pursuant to this act by the board created in Section 5 hereof. Present employees shall remain in their respective employments; however, nothing herein shall be construed to prevent or preclude the removal of an employee for cause in the manner hereinafter provided; and such employees, except for

appointment, shall be subject fully to the provisions of this act.

Section 5. There is hereby created the Shelby County Law Enforcement Personnel Board which shall be composed of five members appointed by members representing Shelby County, or any portion thereof, as herein provided. Each shall make appointments as follows:

1. The Shelby County Commission shall name one member.
2. The Shelby County Legislative Delegation shall jointly name two members.
3. The sheriff of Shelby County shall name one member.
4. The deputy sheriff shall name one member.

If one or more municipalities elect to come under the provisions of this act then the city or cities jointly will name one of the members now herein allocated to the Shelby County Legislative Delegation and the said delegation then will be limited to naming one member. Provided, however, in the event the municipalities cannot agree on the person representing the municipalities, the Shelby County Legislative Delegation shall name such member.

If the Shelby County Legislative Delegation cannot mutually agree on the appointment of any board member or members, then a vote by the delegation shall be made and each member of the legislative delegation shall cast his vote. Each vote shall be weighed in accordance with the total percentage of the Shelby County population that resides in the district the legislative member represents.

The first five appointees shall serve terms of office as follows: The appointee from Shelby County Commission shall serve two (2) years; the appointee or appointees from the legislative delegation and the municipality shall serve four (4) years; and the appointees from the sheriff department shall serve three (3) years. Thereafter, all appointees shall serve four (4) years. Initial terms of office where more than one person is named shall be determined by drawing names after nominees have been appointed. All appointees to the board shall be residents and qualified electors of Shelby County and over the age of twenty-five years.

Members of the board shall take the constitutional oath of office, which shall be filed in the office of the Probate Judge. Vacancies on the board shall be filled in the same manner as original appointments. The members of the board shall elect a chairman and secretary annually from among their number. Any member of the board who becomes a candidate for, or is elected or

appointed to another public office vacates his office as a member of the board.

Section 6. The board shall have the power to hire such clerical assistance and engage such legal counsel of its own choice, as may be necessary to adequately perform its functions.

For regular meetings of the board, each member shall receive \$30.00 per day, not to exceed \$120.00 per month, plus such mileage as is provided by law to the county commission. For special hearings or meetings of the board relating to a pending disciplinary action, each member shall receive \$30.00 per day, not to exceed \$120.00 per month, plus mileage as is provided by law to the county commission.

Section 7. The board shall hold such regular meetings as it may by rule and regulation prescribe. Special meetings shall be held at such times and places determined by the board upon the call of its chairman, or as are otherwise required to hold hearings upon complaint as hereinafter provided. A majority of the board members shall constitute a quorum for the transaction of business.

Section 8. The board shall keep minutes of its meetings and a record of all business transacted by it. All board records, except those required by board rules to be held confidential for reasons of public policy shall be open for inspection by any resident of the city or county at all reasonable times.

Section 9. The board shall be empowered to and shall promulgate such rules and regulations governing examinations, eligible registers, appointments, transfers, salaries, promotions, demotions, annual and sick leave and such other matters as may be necessary to accomplish the purposes of this act. Any proposed rule or regulation shall become effective only after it is adopted at a meeting of the board which meeting is open to the public, and after a certified copy thereof has been filed with the county clerk and the municipal clerk of each municipality electing to come under this act. All employees shall be appointed upon a non-partisan merit basis, however, the board shall not examine nor appoint any person who is not a United States citizen. Provided further, however, that nothing in this act shall be deemed to apply to the chief deputy, who shall serve at the pleasure of the sheriff.

Section 10. The board shall perform, but shall not be limited to, the following specific functions:

(a) To classify the various types of service under its jurisdiction;

(b) To prescribe minimum qualifications, including those of education, training and experience for each such classification of service;

(c) To provide a salary range, from minimum to maximum salary authorized, for each class of service; however, for a period of five years following enactment of this act the minimum salary for any class shall not be less than any existing pay plan for such class of service, provided further that after the said five-year period has elapsed, the salary ranges prescribed by the board shall be used exclusively, regardless of any conflicting pay plans;

(d) To classify and identify each position existing in the present system to its proper class of service;

(e) To periodically provide for the rating of employees' performance;

(f) To establish rules and regulations governing appointments, promotions, salary increases or decreases, as well as layoffs, leaves of absence, suspensions, dismissals, terminations, and other disciplinary actions affecting employees.

Section 11. The salary to be paid each employee shall be determined by his or her appointing authority or as otherwise provided by law; provided further that in each case the salary paid shall be within the limitations prescribed by the board. It shall be unlawful, and punishable as hereinafter provided, for any official or employee to draw or issue any warrant on any municipal treasury or on the county treasury for the payment of salary to any employee covered by the provisions of this act unless the warrant is in an amount authorized by the board to be paid such employee. A sum paid as excessive salary contrary to the provisions of this section may be recovered in an action brought by any resident of the city or county against the official or employee who draws or issues the warrant, or against the sureties on his bond.

Section 12. The board shall keep a register of all persons eligible and available for appointment to each class and position in the service of the county or of any municipality electing to come under this act, ranked according to ability; provided, however, that no examination shall be given and no register kept for positions designated by the board as common laborers. Employees laid off who are subsequently available for reemployment shall be placed at the head of the proper list for eligible registrants in the inverse order of their terminations. Employees who voluntarily terminate their services may be granted reemployment status only under such circumstances and in such manner as may be provided for in the board's rules and regulations.

Section 13. Persons seeking employment in any position must file applications with the board, and the board shall, from time to time, conduct examinations to test the ability of such applicants. All qualified applicants shall be examined, and examinations shall be public, competitive, and subject to limitations specified by the board as to age, residence, health, height, weight, moral character, and other factors pertinent to ability to discharge the duties of the position, provided further, that only United States citizens may apply for any such position. Examinations shall be practical in character and shall relate to those matters which test the ability of the person examined to discharge intelligently the duties of the position for which he applies. Any application which is more than two years old shall not be considered for filling any vacancy and in no case shall the board appoint or approve an appointment from an application which is over two years old. Any person whose application has lapsed may make re-application for any position. An applicant may apply for more than one position; however, any such applicant shall be entitled to be examined only once each two-year period for each position sought, unless otherwise provided by the board.

Section 14. Whenever a vacancy exists in any position, it shall be filled by appointment of one of the appropriate eligible registrants of the board, or by transfer within the service from another position of the same class. However, any eligible person of the same class who has been laid off, as provided in Section 12 hereof, shall receive preference in hiring in every instance. Whenever it is impossible for the board to certify eligible persons to a vacancy, the board may authorize the appointing authority to fill the vacancy temporarily pending the establishment of an eligible registrant. No such temporary appointment shall be effective longer than four months, and no such employee shall have protected status under this act. All appointments other than temporary appointments, shall be probationary for six months from the date of appointment. A probationary subordinate employee may be discharged by his appointing authority for unsatisfactory service at any time before the expiration of that period. A probationary department head employee may be discharged or demoted similarly by his appointing authority upon approval by the board. After the expiration of the probationary period, an appointment shall become permanent, subject to discharge thereafter only for cause.

Section 15. An appointing authority shall have authority to suspend an employee for any personal misconduct affecting or concerning his fitness or ability to perform his duties in the public

interest. In the event an employee is suspended for more than one day, he shall be entitled to a public hearing by the board upon written demand thereon filed within ten days from the date of the order of suspension. A hearing shall be held no later than 10 days following receipt of the written request therefor. If, after the hearing, the board determines that the action of the appointing authority was not with cause, the suspension shall be revoked, and the employee shall be reinstated with back pay for the time period of discharge and hearing. If after the hearing, the board determines that the action of the appointing authority was with cause, the aggrieved employee shall have the right to rehearing and appeal as hereinafter provided.

Section 16. (a) The governing body of any municipality electing to come under this act, or any member thereof acting individually, or the head of any department of such municipality may remove, discharge, suspend or demote any subordinate employee of the municipality subject to this act, provided such municipal authority possesses, by law or regulation of the board, such disciplinary powers. The county sheriff or any supervisory employee to whom the sheriff has delegated such disciplinary powers may remove, discharge, suspend or demote any subordinate employee of the sheriff's office, provided that within five days thereof, a written report of such action is made to the board, giving the reason or circumstances surrounding such disciplinary action.

If any aggrieved employee is suspended for more than one day, removed, discharged, or demoted, he shall be entitled to a board hearing on such disciplinary action, upon written demand thereon within ten days of such action. A hearing shall be held within 10 days of the receipt of the written request therefor. All meetings of the board on disciplinary matters shall be open to the public, and shall observe the aggrieved employee's right to face his accusers and be heard in his own defense. A permanent employee who has completed the said six-month probationary period shall not have disciplinary action taken against him except for personal misconduct rendering his further tenure harmful to the public interest, or for any cause affecting or concerning his fitness or ability to perform his duties.

(b) Pending a hearing on any disciplinary action, the aggrieved employee may be temporarily suspended. Upon a hearing, the board may order said employee reinstated with back pay from the time of such action to the date of reinstatement, or take or approve such disciplinary action as, in their judgment, is warranted by the evidence and under the law. Any aggrieved employee shall, after an adverse hearing, have the right to

rehearing and appeal as hereinafter provided.

Section 17. Written charges or complaints of wrongdoing or any other grievance may be filed with the board by any employee, officer, supervisor, chief, or other employee of any county or municipal law-enforcement office to which this act applies as herein provided. The charge, complaint or grievance must be specifically stated, and sworn to before any member of the board or before any person authorized to administer oaths.

Upon the receipt of such charges, the board, after due consideration shall determine whether in its opinions, sufficient grounds exist to warrant a hearing thereon, and if not, such charges may be dismissed by the board. If in the judgment of the board such charges are of a minor nature, such charges may be referred by the board to the proper department head who shall make an investigation of the charges and make his recommendation to the board within such time as the board may prescribe, as to what disciplinary action, if any, should be taken. After such recommendation is made by the department head and after due notice is given to the employee thereby affected by such recommendation and the contents thereof, the board may, in its discretion, adopt and order executed the action or any part thereof recommended by the department head. However, if the complainant or the affected employee, or both of them, objects to the recommendation of the department head, the board shall hold a hearing on the matter, and take such disciplinary action as in their judgment is warranted by the evidence and under the law. All hearings before the board shall be open to the public. All testimony given in all hearings before the board shall be recorded in shorthand by a stenographer. In all cases, the decision of the board shall be reduced to writing and entered in the record of the case. In all proceedings before the board the city attorney, or county attorney as the case may be, may appear and prosecute all charges instituted by the governing body of the county or of any municipality electing to come under this act, either individually or as a body, or the sheriff or his supervisors, or by any department head, when requested or directed to do so by such city governing body, or the sheriff or his supervisors. It shall not be the duty of the city attorney or the county attorney to prosecute any charges brought by a private citizen. In all proceedings before the board, the city attorney or county attorney may appear and represent the interests of the city or sheriff's department and they shall also give such legal advice and legal assistance to the board as may be requested by it.

Section 18. The board or its specially authorized

representatives shall have the power to administer oaths, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of papers necessary as evidence in connection with any hearing, investigation or proceeding within the purview of this act. The sheriff or some other person so designated by him, shall serve all processes of the board, and shall attend upon and preserve order at all public hearings conducted by the board. In case a person refuses to obey such subpoena, the board or its authorized representative may invoke the aid of any circuit court in order that the testimony or evidence be produced. Upon proper showing, such court may, in its discretion, issue a subpoena or order requiring the person to appear before the board or its representative and produce all evidence and give all testimony relating to the matter in issue. A person who fails to obey such subpoena order may be punished by the court for contempt. The fees of witnesses for attendance and travel shall be the same as fees for witnesses in the circuit courts of this state, which fees shall be paid from the treasury of the city or county.

Section 19. Any employee aggrieved by a decision of the board on the original hearing shall be entitled to a re-hearing of the issue before the board as provided herein. The aggrieved employee shall make written request upon the board within five days of an adverse decision at the original hearing and the board shall, within 10 days of receipt of a request for rehearing, hold such rehearing in substantially the same manner as the original hearing to review its earlier decision. If, on rehearsing, the employee is aggrieved by the board's decision, such employee may appeal such decision to the circuit court of Shelby County in equity within thirty days from the rendition of such decision by the board. Review by the court shall be without a jury and be confined to the record, and to a determination of the questions of law presented.

Section 20. No employee shall make, solicit or receive any assessment, donation, subscription or contribution for any political purpose whatsoever, or be a member of a committee or an officer of a political party, or take any part in its management or affairs except to exercise his right as a citizen to express his opinion and cast his vote; no employee shall assist any candidate for nomination or election to public office; or make any public statement in support of or against any such candidate, or participate in any manner whatever in the campaign of any candidate in any general or primary election; and no employee shall receive any appointment or advancement as a reward for his support of a candidate for office or a political party; nor shall he be dismissed, suspended or reduced in rank or pay as punishment for his failure to support any candidate for political office.

Section 21. The county commission shall provide the board an office in the county courthouse which shall be suitably equipped and furnished for the operation of the board's business, including, but not limited to telephone service, postage supplies, stationery, and other supplies necessary for the board's operations.

Section 22. Any person who violates any provision of this act shall be guilty of a misdemeanor and, upon conviction, shall be punished as prescribed by law; additionally, any employee appointed or approved for county or municipal service pursuant to the provisions of this act who wilfully violates any provision of this act, including any rule or regulation promulgated by the board, shall be dismissed immediately and shall not be eligible for reappointment for a period of two years.

Section 23. All expenses incurred in the implementation of the provisions of this act shall be financed from a special fund provided in the county treasury for such purposes, pursuant to the passage of an additional tax on the sales of beer, malt or brewed beverages in Shelby County at the 1977 Regular Session of the legislature. It is further provided, however, that expenditures by the board in one year shall not exceed \$25,000.00 derived from the proceeds of any such tax. Any income derived from the proceeds of any such tax, which exceeds the actual expenditures of the board for any year shall be paid over to the county general fund and shall be used exclusively by the Sheriff's Department for law enforcement purposes in said county.

Section 24. Any municipality within the county may elect to become subject to the provisions of this act by resolution adopted by the municipal governing body.

Section 25. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 26. All laws or parts of laws which conflict with this act are hereby repealed.

Section 27. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:45 A.M.

To repeal Act No. 2362, H. 144, Regular Session 1971 (Acts 1971, p. 3795), entitled, "An Act Relating to counties having populations of not less than 16,600 nor more than 16,950, fixing the fee for issuance of a pistol permit by the sheriff and providing for the disposition and use of such fees."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 2362, H. 144, Regular Session 1971 (Acts 1971, p. 3795), entitled, "An Act Relating to counties having populations of not less than 16,600 nor more than 16,950, fixing the fee for issuance of a pistol permit by the sheriff and providing for the disposition and use of such fees," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-526

H. 822—Bowling

AN ACT

Relating to Winston County; fixing the fee for the issuance of pistol permits by the sheriff, providing for the deposit of such fees in a sheriff's fund, and providing for the use of such fund.

Be It Enacted by the Legislature of Alabama:

Section 1. Relating to Winston County; the fee for issuance of a permit to carry a pistol concealed on or about the person or in a vehicle as provided in Section 13-6-55, Code of Alabama 1975, shall be fifteen dollars (\$15.00) which shall be collected by the sheriff.

Section 2. Any and all monies collected as provided above in Winston County within the purview of this Act shall be deposited by the sheriff in any bank located within the county into a fund known as the Sheriff's Fund. Said fund shall be drawn upon by the sheriff of the county or his appointed agent and shall be used exclusively for law enforcement purposes and in the discharge of the sheriff's office as he sees fit. The establishment of the Sheriff's Fund as provided in this Act, and the use of such funds shall in no way diminish or take the place of any other imbursement or other source of income established for the sheriff or for the operation of his office.

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. The provisions of this act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-527

H. 828—Cosby, Pegues, Edwards

AN ACT

To amend Section 2 of Act No. 414, H. 744, Regular Session of 1978 (Acts 1978, p. 411) entitled "An Act relating to Dallas County; to provide a District Attorney's Fund for Dallas County; and to provide an expense supplement for the District Attorney, Deputy District Attorney or the Assistant District Attorney serving as Deputy District Attorney and the part-time Assistant District Attorney for Dallas County from the District Attorney's Fund" so as to provide further for such expense supplement.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 2 of Act No. 414, H. 744, Regular Session of 1978 (Acts 1978, p. 411) is hereby amended to read as follows:

"Section 2. Provided, in addition to the expense and allowances payable to the District Attorney of the Fourth Judicial Circuit of Alabama by the State, he shall be entitled to an expense supplement of \$1,500.00 per annum, which shall be payable from the District Attorney's Fund herein created, payable in equal monthly installments, upon requisitions signed by the District Attorney. Provided further, in addition to the expense and allowances payable to the Deputy District Attorney or the Assistant District Attorney serving as Deputy District Attorney, he shall be entitled to an expense supplement of up to \$1,500.00 per annum, in the discretion of the District Attorney of the Fourth Judicial Circuit of Alabama, which shall be paid in equal installments from the District Attorney's Fund herein created, upon requisitions signed by the District Attorney."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-528

H. 850—Whatley, Ward, Turnham

AN ACT

Relating to Lee County; authorizing the Lee County Commission to set the allocation for clerk hire allowances in the offices of the probate judge, the tax assessor and the tax collector, respectively; and repealing conflicting laws.

Be It Enacted by the Legislature of Alabama:

Section 1. The Lee County Commission shall set the allocations for clerk hire allowances in the offices of the probate judge, the tax assessor and the tax collector, respectively. However, the clerk hire allocation for the tax collector's office shall be no less than \$25,000.00 per year.

Section 2. All laws or parts of laws to the extent they conflict with the provisions of this act are hereby repealed.

Section 3. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-529

H. 862—Ward, Turnham, Whatley

AN ACT

Relating to Lee County; providing for purging the lists of registered voters; requiring and prescribing the procedure for the re-identification of registered voters; placing certain duties on the board of registrars, judge of probate, and the county governing body relative to the re-identification of registered voters; and providing a penalty for willfully making a false statement in connection with re-identification.

Be It Enacted by the Legislature of Alabama:

Section 1. In Lee County, the board of registrars is hereby directed to purge all lists of the qualified electors in the county to the end that the names of all persons who are deceased or

nonresidents of the county, or have otherwise become disqualified from voting in Lee County, shall be removed from such lists, and that the name of each qualified elector shall appear only on the list of qualified electors for the beat in which he resides.

Section 2. The board of registrars shall omit and remove from the lists of qualified electors of the county the name of any person who fails to re-identify himself, in the manner prescribed herein, before the first day of January, 1980. No person whose name is removed from the list of qualified electors as herein provided shall cease permanently to be a qualified elector nor be subject to re-registration, but shall be subject only to the requirement that he re-identify himself as a duly registered elector before being listed on the list of qualified electors in the county, and before being entitled to vote.

Section 3. Prior to the first day of January, 1980, the board of registrars of Lee County is hereby authorized, directed, and required to visit each beat in the county at least once, and more often if necessary, and remain there at least one day from nine o'clock in the morning until four o'clock in the afternoon, for the purpose of enabling qualified and registered voters residing in the beat to appear before the board and re-identify themselves. The board shall give at least ten days notice by advertisement in a newspaper published in the county, of the time when, and the place in the beat where they will attend for the purpose of enabling voters to appear and re-identify themselves. Upon failure to give such notice, or to attend any appointment made by them in any beat, they shall, after like notice, fill new appointments. The board shall remain in session for thirty days. During the 30 day session the board shall visit each beat on at least one day and the remainder of the time may be divided as the board of registrars deem necessary, to enable the qualified electors of the county to appear and re-identify themselves in the manner prescribed herein. No voter shall appear and re-identify himself at any place except in the beat in which he resides or in the courthouse of the county.

Section 4. Each member of the board of registrars shall receive ten dollars per day, for each day's attendance upon the special sessions of the board required under the provisions of this act; but if such special session is held on the same day a regular session is required to be held under the laws of this state, registrars shall receive only one per diem allowed for performing their regular duties, it being the intent and purpose of this act that registrars shall be entitled to receive only one per diem allowance for one day's service. If one or more of the members of the board shall refuse, neglect, or be unable to serve, or if a vacancy or

vacancies occur in the membership of the board from any cause, the Governor, State Auditor, and Commissioner of Agriculture and Industries, or a majority of them, shall forthwith make other appointments to fill such vacancies.

Section 5. The voter may re-identify himself by appearing in person before the board of registrars in the beat in which he resides, or by appearing before the judge of probate, or either of the clerks in the office of the judge of probate, or before the board of registrars in regular session, and answering such questions and submitting such proof under oath, as the board may require in order to establish the voter's identity, place of legal residence, and the fact that the voter has not become disqualified from voting in the county.

Section 6. The board of registrars shall meet on the first Monday in January 1980, for the purpose of purging the registration lists and the names of all persons who have failed to appear and re-identify themselves in the manner herein prescribed shall be stricken from the lists, provided, however, that said board shall not strike the name of any persons, or the spouse of any person, known by any member of said board, or made known to the said board by the written affidavit of another qualified elector, to be in active duty of any of the armed forces of the United States of America, and to be stationed, or to be living with her or his spouse, as the case may be, outside Lee County, Alabama, during the period of time from the effective date thereof to January 1, 1980.

Section 7. Any qualified elector of the county who shall have his name omitted or removed from the list of qualified electors in the county by failure to appear and re-identify himself as herein provided shall be entitled to have his name restored to the list of qualified electors by appearing in person at the office of the board of registrars, or at the office of the judge of probate, and answering such questions and submitting such proof, under oath, as the board may require to establish the voter's identity, place of legal residence, and the fact that the voter has not become disqualified from voting in the county. Provided, however, every qualified elector must have re-identified himself at least 10 days prior to the election at which he offers to vote; provided further, however, that this act shall not be construed or applied to impair or deny the right to vote in person or by absentee ballot of any person or of the spouse of any person, now a qualified elector of said county, who is in active duty of any of the armed forces of the United States of America and stationed, and, as to the spouse, who is living with her or his husband or wife as the case may be outside of Lee County, Alabama, during the period of time from the effective date hereof to January 1, 1980.

VOTERS RE-IDENTIFICATION QUESTIONNAIRE

Date of Birth.....Sex.....

Section 10. Any person who willfully makes a false statement to the board of registrars, or any duly authorized person, in re-identifying himself as a qualified elector in the manner provided herein shall be guilty of perjury, and upon conviction thereof shall be punished by imprisonment in the penitentiary for not less than one nor more than five years.

Section 11. The provisions of this act are severable. If any

part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 12. All laws or parts of laws which conflict with this act are repealed.

Section 13. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-530

H. 877—Holley, Ray

AN ACT

Relating to Coffee County; fixing the fee for the issuance of pistol permits and providing for the disposition of such fees.

Be It Enacted by the Legislature of Alabama:

Section 1. In Coffee County, the fee for issuance of a permit to carry a pistol in a vehicle or concealed on or about the person shall be ten dollars (\$10.00) which shall be collected by the sheriff.

Section 2. Four dollars (\$4.00) of each fee collected under Section 1 of this act shall be paid into the county treasury of the county and the remaining six dollars (\$6.00) of each fee shall be deposited by the sheriff of the county in any bank located in the county into a fund known as the sheriff's fund. The county commission may by resolution direct that the sheriff deposit all monies collected under this act into the general fund of the county.

Section 3. The sheriff's fund provided for in Section 2 of this act shall be drawn upon by the sheriff of the county or his appointed agent and shall be used exclusively for law enforcement purposes and in the discharge of the sheriff's office as he sees fit.

Section 4. The sheriff shall be held accountable to the county commission of the county and shall file a monthly report of fees collected and disbursed under this act. The state examiner of public accounts shall make an annual audit of the fees collected and disbursed under this act.

Section 5. The establishment of the sheriff's fund as provided in this act and the use of such funds shall in no way diminish or take the place of any other imbursement or other source of income

established for the sheriff or the operation of his office.

Section 6. All laws or parts of laws which conflict with this act are repealed.

Section 7. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 8. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-531

H. 878—Holley, Ray

AN ACT

Relating to Coffee County; to provide further for the costs and charges of district and circuit courts and to provide for the disposition thereof.

Be It Enacted by the Legislature of Alabama:

Section 1. In Coffee County, in addition to all other costs and charges in the circuit and district courts a fee of \$3.00 shall be charged and collected by the clerks of such courts on both civil and criminal cases. The monies derived from the charges hereinabove prescribed shall be remitted to a juvenile probation fund in a separate bank account as determined by the district judge and the probate judge. The county commission may by resolution direct that the clerks deposit all monies collected under this act be deposited into the general fund of the county. Said fund shall be spent to finance the juvenile probation office, including but not limited to a supplemental salary for the juvenile probation officer and/or his staff.

Section 2. The District Judge shall be accountable to the county commission and shall file a monthly report of fees collected and disbursed under this act. The state examiner of public accounts shall make an annual audit of the fees collected and disbursed under this act.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon

its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-532

H. 899—Venable, Grouby

AN ACT

Relating to Elmore County; to provide a procedure for handling cases involving invalid personal checks given for licenses, and the voiding of such licenses.

Be It Enacted by the Legislature of Alabama:

Section 1. In Elmore county, in cases where a personal check given for a license is found to be non-collectible for any reason, the probate judge will notify the license inspector, who will make a reasonable attempt to retrieve the license in question. In the event that the license cannot be retrieved, the license inspector will so state and such statement shall constitute authorization for the probate judge to void any license in question. Once such license has been voided, the probate judge will receive credit for the cost of the license plus the issuance fee. The appropriate state office will mark the records pertaining to the void license and, upon inquiry by law enforcement agencies, will notify said agencies that the party in question is operating under a void license. All violations will be prosecuted in accordance with current law.

Section 2. The provisions of this act are supplemental. It shall be construed in *pari materia* with other laws relating to such matters; however, those laws or parts of laws which are in direct conflict or inconsistent herewith are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-533

H. 900—Venable, Grouby

AN ACT

Relating to Elmore County; to increase the compensation of members of the Board of Equalization.

Be It Enacted by the Legislature of Alabama:

Section 1. In Elmore County, the members of the Board of Equalization shall be entitled to \$40.00 a day for each day's service as provided by law. Such compensation shall be payable in equal monthly payments and be in lieu of any other compensation heretofore provided by law for such members. After the amount is paid as provided for in Sections 40-3-7 and 40-3-8, Code of Alabama 1975, the remainder shall be paid from the general fund of the county.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-534

H. 921—Willis

AN ACT

To amend Section 3 of Act No. 2182, H. 2753 of the Regular Session of 1971, (Acts 1971, p. 3489), relating to the civil service system of the City of Jacksonville, so as to provide a further exemption from the civil service provisions for any city librarian.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 3 of Act No. 2182, H. 2753 of the Regular Session of 1971, (Acts 1971, p. 3489) is hereby amended to read as follows:

“Section 3. The provisions of this act shall apply to all officers and employees in the service of the city or any board, agency or instrumentality thereof except: (a) elective officers; (b) members of appointive boards, commissions, and committees; (c) all employees of the city board of education engaged in the profession of teaching or in supervising teaching in the public schools; (d) attorneys, physicians, surgeons, nurses and dentists employed in their professional capacities; (e) the judge of any court; (f) independent contractors receiving their remuneration from public funds under contracts awarded by competitive bidding; (g) any person whose employment is subject to the approval of the United States

government or any agency thereof; (h) the secretary of the chief executive officer of the city; (i) any employees at a hospital or nursing home, whether operated by the city or by any municipal authority or board of the city; (j) and any professional librarian employed by the city."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-535

H. 923—Laird, Ward

AN ACT

Relating to Chambers County; to authorize the Chambers county commission to establish Industrial Parks within the county; to provide for the designation and regulation of such Industrial Parks; to designate the facilities to be furnished and maintained by the Industrial Parks; to exempt Industrial Parks from annexation by municipalities; to exempt Industrial Parks from being included in the police jurisdiction of municipalities; and to confirm the rights and responsibilities of county commissions, including the right of taxation.

Be It Enacted by the Legislature of Alabama:

Section 1. Subject to the written approval of the owners of one hundred percent (100%) in interest based on assessed value for ad valorem tax purposes of each ten (10) acres, or the part thereof to be included in the proposed Industrial Park, the county commission of Chambers County in the state of Alabama may establish Industrial Parks composed of territory wholly within the county boundaries and without the boundaries of any municipality. Any person, firm or corporation who desires to obtain a designation of an area as an Industrial Park shall file a petition with the county commission of the county wherein the property is located requesting that the county commission designate the area proposed as an Industrial Park, and include with such petition the consent of the land owners as above required. The consent of each consenting owner shall be acknowledged before a notary public or other person authorized to take acknowledgements to deeds in Alabama.

Section 2. An Industrial Park may include any compact body of land which is used exclusively for industrial purposes or which is primarily suited for industrial development.

Section 3. Before any designation is made of an Industrial

Park or any change is made of the boundaries of an existing one, the county commission shall hold not less than one (1) public hearing thereon. The county commission shall give notice of the purpose, time and place of the public hearing by one (1) publication in a newspaper of general circulation throughout the county not less than ten (10) days prior to the date set for the hearing. The designation of an Industrial Park or any change of the boundaries of an existing one shall be by resolution of the county commission. The resolution shall refer expressly to the map or maps and descriptive and other matter related to the Industrial Park, and the action taken by the county commission shall be recorded on the map or maps and descriptive and other matter by the identifying signature of the presiding officer of the county commission. Certified copies of the map or maps and descriptive and other matter shall be filed with the county commission and with the clerk of probate court.

Section 4. Whenever the county commission has designated an Industrial Park or has made a change of the boundaries of an existing one and has filed certified copies thereof as provided in Section 3, no facilities shall be thereafter located therein that are not industrial in character or reasonably related thereto; provided, however, no construction or installation permits shall be required, but the county commission may resort to judicial process to enforce such industrial requirements.

Section 5. The person, firm or corporation that files a petition with the county commission seeking to have land designated as an Industrial Park may file with the probate judge of the county in which the land is located, a set of by-laws governing the Industrial Park and listing the facilities to be furnished by the governing body of the Industrial Park.

Section 6. Those industries located within the boundaries of any Industrial Park shall each privately furnish and maintain upon their own premises within the area of their individual facilities or the industries located within the boundaries of any Industrial Park or governing body of any Industrial Park shall furnish and maintain individually or as a group the following services usually provided by county or local governments:

1. The construction and cleaning of streets;
2. Street lighting;
3. Sewers and sewerage works;
4. Water service;

5. Fire protection;
6. Garbage and refuse collection and disposal;
7. Police protection; and
8. Wharf and dock facilities, where applicable.

Agreements between the industries located within the boundaries of an Industrial Park and the county commission and/or any municipality or municipalities located nearby may be made for mutual police and fire protection, water service or any other service. No Industrial Park shall be subject to municipal annexation, nor shall it be considered as a part of the police jurisdiction of any municipality. All Industrial Parks shall be subject to the jurisdiction of the sheriff and courts of the county in which they are located in the same manner that cities and towns are subject to such jurisdiction.

All Industrial Parks so created shall include provisions for access by public road to any and all entrances to the premises of each and every plant in such area which entrances are provided for use by employees of such company, or for use by employees of independent contractors working on such premises, or for delivery of materials or supplies, other than by rail or water transportation to such premises.

Section 7. The county commission may abolish the Industrial Park or remove a portion of the territory from an Industrial Park if (1) the industries located therein request the abolishment of the Industrial Park or the removal of a portion of the territory from an Industrial Park; or (2) the property or a portion of the property within the Industrial Park ceases to be used for Industrial Park purposes. The county commission may abolish an Industrial Park or remove a portion of the territory from an Industrial Park only by resolution adopted after not less than one (1) public hearing on the question. The resolution of a county commission to abolish an Industrial Park or remove a portion of the territory from an Industrial Park shall be effective thirty (30) days after the resolution is adopted by the county commission, provided that no resort to the courts is taken challenging such action prior to the expiration of such thirty (30) days by a property owner within the area affected. If such action is taken by a property owner, the resolution of the county commission shall be effective only when a judgment adverse to the property owner has been rendered and is final, executory and definitive. The results of any final action taken under this section which in any way alters the boundaries of the Industrial Park shall be filed with the clerk of probate court.

Section 8. When an Industrial Park has been created, such action shall not limit or diminish the rights and responsibilities of the county commission concerning the Industrial Park. The county commission shall retain the right to tax the Industrial Park as it does all other areas of the county.

Section 9. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 10. All laws or parts of laws which conflict with this act are hereby repealed.

Section 11. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law, and shall be retroactive to May 1, 1978.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-536

H. 924—Laird, Ward

AN ACT

Relating to Chambers County; to provide for the salary and mileage allowance of the county coroner.

Be It Enacted by the Legislature of Alabama:

Section 1. The coroner of Chambers County shall receive a salary of \$350.00 per month, plus a mileage allowance at the rate per mile prescribed by state law for necessary travel in the performance of his duties. These amounts shall be paid in lieu of all other compensation heretofore provided by law, and shall be paid from the general fund in the county treasury.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This act shall become effective October 1, 1979.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-537

H. 927—Carothers

AN ACT

To provide for and prescribe the form of government of the City of Dothan, Alabama.

Be It Enacted by the Legislature of Alabama:

Section 1. The City of Dothan, Alabama shall become organized under the commission form of government provided for by this act. It is provided, however, that until the first Monday in October, 1979 the city shall continue to be governed under the laws applicable to its present form of government, as provided by Act No. 2141, H. 2651, Regular Session, 1971, Alabama Law, except as otherwise provided herein. Effective on the first Monday in October, 1979, the City of Dothan, Alabama shall be governed by a board of commissioners consisting of five members, one of whom shall be president of the board of commissioners and four associate commissioners. The president of the board of commissioners shall serve on a full time basis and shall be the mayor and the chief executive of the city. Each associate commissioner shall serve on a part time basis as hereinafter provided.

Section 2. The territorial limits of the city shall remain the same as under its former organization, except that for the purpose of holding elections under applicable laws the present governing body of Dothan shall, by duly enacted ordinance, divide such city into four wards, each containing as nearly as practical an equal number of qualified electors of the city. Ward No. 1 shall be that portion of the city in the northeast section, Ward No. 2 shall be that portion of the city in the southeast section, Ward No. 3 shall be that portion of the city in the southwest section and Ward No. 4 shall be that portion of the city in the northwest section. One associate commissioner shall reside in each of the four wards, and prior to his election to represent a ward, must have resided in the ward for at least six months. The president of the board of commissioners may live in either ward. All candidates for election as members of the board of commissioners shall have been qualified electors in the city for at least one year prior to his qualifying as a candidate for office. The president and the associate commissioners provided for by this act shall be known collectively as "The Board of Commissioners of the City of Dothan" and shall have powers and duties hereinafter provided.

Section 3. The mayor and the associate commissioner of Ward No. 2 shall continue to hold their respective offices until the first Monday in October, 1981, as provided by Act No. 2141, H. 2651, Regular Session, 1971, Alabama Law. Under applicable laws

for the election of members of the board, the mayor, within the scope of this Act, shall provide for an election to be held on the second Tuesday in September, 1979, and every four years thereafter for the positions of associate commissioners of Ward No. 1, Ward No. 3 and Ward No. 4 in the manner herein provided. On the second Tuesday in September, 1981, and every four years thereafter an election shall be held for the positions of mayor and associate commissioner of Ward No. 2 in the manner herein provided. Every candidate for election to any of such offices shall, in announcing his candidacy, designate the position for which he is a candidate; and the ballots or voting machines to be used at the elections shall be prepared accordingly. All persons in the city qualified to vote in such elections shall be entitled to vote for one candidate for mayor and for one candidate for the position of associate commissioner for each of the four wards. The candidate for the position of mayor who receives a majority of all the votes cast for all candidates for this position shall be declared elected as mayor; but if no candidate receives a majority, the two candidates receiving the highest number of votes cast shall be declared eligible for a second election. Whenever a candidate for any one of the positions of associate commissioner receives a majority of all the votes cast for all candidates for that position, he shall be declared elected to the position so designated; but if no candidate for such a designated position receives a majority, the two candidates receiving the highest number of votes shall be declared eligible for a second election. Such second election, when and if necessary, shall be held on the second Tuesday next succeeding the date of the first election. The candidate who received the highest number of votes in the second election shall be declared elected to such designated position. The term of office for the mayor shall be four years, and until his successor is elected and qualified as hereinafter provided. The term of office of each associate commissioner receiving the highest number of votes cast shall be four years, and until his successor is elected and qualified as hereinafter provided. Candidates declared elected shall qualify and take office on the first Monday in October next following their election. Except as otherwise provided herein, elections of the mayor and associate commissioners provided for by this Act shall be conducted in accordance with the general election laws of Alabama.

Section 4. The members of the board of commissioners provided for by this act shall be municipal officers only, and shall have, possess, and exercise the municipal powers, legislative, executive, and judicial, now or hereafter conferred upon municipalities and the governing bodies thereof. All laws governing Dothan, and not inconsistent with the provisions of this

act, shall apply to and govern the city after it has become organized under the commission form of government provided for by this act. All laws, ordinances, and resolutions lawfully passed and in force in the city under its former organization not inconsistent with the provisions of this act shall remain in force until altered or repealed, according to the provisions of this act. All employees of each such city and all officials except those whose terms of office may be abolished by this act shall continue in office until otherwise provided by the board of commissioners.

Section 5. If a city manager for such city is not employed the mayor and president of the city commission shall devote his full time to the duties of his office. If a city manager is employed then the mayor and president of the city commission shall devote such time daily as may be necessary to perform the duties of his office, and each associate member of the commission shall devote such time daily as may be necessary to perform the duties of his office. The mayor shall have general supervision and control of all other offices and of the affairs of the city and shall have such rights, powers, and responsibilities as may be prescribed by duly enacted ordinances and resolutions of the board of commissioners, and as provided by the laws of the State of Alabama.

Section 6. The mayor and associate commissioners shall continue to receive their respective salaries and allowances until the expiration of their respective terms of office. In addition, all reasonable expenses incurred by such mayor and associate commissioners in the performance of their duties as such mayor and associate commissioners shall be paid by the city. All such salaries shall be payable by the city in equal monthly installments and at the same rate for every fraction of a year which the commissioners serve. After the expiration of the term or terms of office of the present mayor and each associate member now holding office, the mayor of Dothan shall receive an annual salary of fourteen thousand four hundred dollars (\$14,400) and each associate commissioner shall receive an annual salary of seven thousand two hundred dollars (\$7,200). All such salaries and expense allowances shall be payable by the city in equal bi-weekly installments and at the same rate for every fraction of a year which the commissioners serve. The payment of all funds out of the treasury shall be by warrants signed by the city clerk and countersigned by the mayor, provided that during the absence of the mayor from the corporate limits of the city, and necessity therefor arising, warrants may be countersigned by one of the associate commissioners designated by the mayor to act in his stead. All such disbursements shall be authorized by resolution of the

commission or by voucher signed by the City Clerk-Treasurer and three members of the commission.

Section 7. In addition to any and all salaries and other allowances set forth in Section 6 hereof, at the expiration of the respective terms of office of the mayor and each associate commissioner, each successor in office thereto shall be entitled to receive an expense allowance of one hundred dollars (\$100.00) per month, payable from the city treasurer in the same manner as salaries and expense allowances are provided for in Section 6 of this act.

Section 8. All rights, powers and property of every description which were vested in the city shall vest in it under the organization herein provided for as though there had been no change in the organization of the city; and no right or liability, either in favor of it or against it, and no suit or prosecution of any kind shall be affected by such change, unless otherwise expressly provided for by the terms of this act.

Section 9. The City of Dothan shall be governed and managed by the board of commissioners provided for herein. Except as otherwise provided herein, each and every officer and employee of the city other than the commissioners shall be selected and employed by the board, or under its direction, and all salaries and wages paid by the city, except as otherwise provided by this act, shall be fixed by the board. The commissioners shall have the authority to create all necessary officers and shall prescribe and may at any time change the power, duties, and titles of all subordinate officers and employees of the city, including the office of city recorder, and all such officers and employees shall hold office and be removable at the pleasure of the board of commissioners, except as otherwise provided herein. It is provided, however, that all salaried officials, except members of the boards and commissioners above mentioned, and the recorder, if any, who are holding office at the time of the adoption of this form of government, under an election, appointment, or other method of selection for a definite term, shall be permitted to serve out such term in the position and with the duties and compensation, and subject to the conditions, restrictions, and regulations which would have existed had there been no change in the government of such city. And it is provided further that any merit system for the governance of its personnel, the jurisdiction, powers, duties, and operation of such merit system shall not be affected by this act, and the merit system shall continue to function as now provided for, as this act is not intended to supersede, modify, or repeal in any manner any legislation--general, local, or special--providing a merit system for the city.

Section 10. The board of commissioners provided for by this act shall hold regular public meetings on the first and third Tuesdays of each month at some regular hour to be fixed by the board from time to time, and publicly announced by it; provided, however, that the board may by ordinance provide that it shall hold regular public meetings on Tuesday of each week, or on the second and fourth Tuesdays of each month, the time of such meetings to be fixed by the board from time to time and publicly announced by it; and the board may hold such adjourned, called, and other meetings as may be necessary or convenient.

Section 11. The president of the board, when present, shall preside at all meetings of the board, but shall have no veto power. Three members of the board shall constitute a quorum for the transaction of all business to be done by the board, and for the exercise of any power conferred upon it; and the affirmative vote of three members of the board shall be necessary and sufficient for the passage of any resolution, by-law, or ordinance, or for the transaction of any business of any sort by the board, or for the exercise of any of the powers conferred upon it by the terms of this act, or that may hereafter be conferred upon it.

Section 12. The board may assign or delegate to one or more of its members, or to such boards, commissioners, officers, or employees as may be created or selected by it, the performance of such executive and judicial duties and powers as may be necessary or convenient, provided that such assignment or delegation is done by resolution, by-law, or ordinance, duly enacted according to the terms of this act, and according to the laws of Alabama.

Section 13. All meetings of the board at which any person not a city officer is present shall be open to the public.

Section 14. No resolution, by-law, or ordinance granting any franchise, appropriating any money for any purpose, providing for public improvements, enacting any regulations concerning the public comfort, the public safety or public health, or of any other general or permanent nature, shall be enacted except at a regular or adjourned public meeting of the board.

Section 15. Every motion, resolution, or ordinance introduced at any such meeting shall be reduced to writing and read before any vote thereon shall be taken; and the yeas and nays thereon shall be recorded.

Section 16. A record of the proceedings of every such meeting shall be kept in a well bound book and shall be signed by at least three of the commissioners before the action taken at such

meeting shall be effective. Every resolution and ordinance adopted by the board of commissioners shall be kept in either the same or another well bound book. All such records shall be kept available for inspection by all citizens of such city at all reasonable times.

Section 17. No resolution, by-law, or ordinance granting to any person, firm, or corporation any franchise, lease, or right to use the streets, public highways, thoroughfares, or public property of the city organized under the provisions of this act, either in, under, upon, along, through, or over same shall take effect and be in force until thirty days after the final enactment of same by the board of commissioners, and publication of said resolution, by-law, or ordinance in full once a week for three consecutive weeks in some newspaper published in the city, which publication shall be made at the expense of the persons, firms, or corporations applying for the grant.

Section 18. Pending the passage of any such resolution, by-law, or ordinance, or during the time intervening between its final passage and the expiration of the thirty days during which publication shall be made as above provided, the legally qualified voters of the city may by written petition or petitions addressed to the board of commissioners object to such grant, and if, during this period, such written petition or petitions signed by at least a number of qualified voters equal to four for every one hundred inhabitants of the city, or fraction thereof, according to the last federal census, shall be filed with the board of commissioners, the board shall forthwith order an election, at which the legally qualified voters of the city shall vote for or against the proposed grant as set forth in the by-law, resolution, or ordinance. In the call for the election the resolution, by-law, or ordinance making the grant shall be published at length and in full at the expense of the city in some newspaper in the city. One publication shall be sufficient for the purposes of this section.

Section 19. If at such election the majority of the votes are in favor of the ordinance and the making of the proposed grant, the same shall thereupon become effective; but if a majority of the votes so cast shall be against the passage of the resolution, by-law, or ordinance and against the making of the grant, the by-law, resolution, or ordinance shall not become effective, nor shall it confer any rights, powers or privileges of any kind, and it shall be the duty of the board of commissioners, after the result of the election is determined, to pass a resolution or ordinance to that effect.

Section 20. No grant of any franchise or lease or right of user, or any other right in, under, upon, along, through or over, the

streets, public highways, throughfares, or public property of any such city shall be made or given, nor shall any such rights of any kind whatsoever be conferred upon any person, firm or corporation, except by resolution or ordinance, duly passed by the board of commissioners at some regular or adjourned meeting, and published as above provided for; nor shall any extension or enlargement of any such rights or powers previously granted, be made or given except in the manner and subject to all the conditions herein provided for as to the original grant of same.

Section 21. Any waterworks plant and system, a sewer plant and system, an electric plant and system, and a gas plant and system, or any one or more of such plants and systems now or hereafter owned by the City of Dothan shall be authorized to transfer and convey one or more of such plants or systems, or any part of such plants or systems, or any rights incidental thereto to any board or public corporation organized under the provisions of Sections 11-50-1 et seq. of the Code of Alabama, 1975, or under any subsequent act providing for the incorporation of like boards to own and operate any waterworks plant or system, any sewer plant or system, any electric plant or system, or any gas plant or system, whether such board was incorporated with the approval of the city owning such plant or system, or with the approval of some other city in Alabama, the governing body owning any such plant and/or systems shall provide for an election at which the qualified voters of such city shall be allowed to vote on such proposition, which election shall be held according to Sections 13 through 19 above, except that no written petition or petitions to the governing body of the city owning such plants or systems shall be required for the holding of such election herein provided for.

Section 22. Except as herein provided for, and at the time of holding the same, all elections herein required shall be held according to the general laws of Alabama. At any such election the proposition to be submitted to the voters shall be: "Shall the governing body of the city of _____ be authorized to transfer and convey the city-owned waterworks plant and system, sewer plant and system, electric plant and system, gas plant and system, or any one or more thereof, or any part or parts of such plants or systems, or any rights incidental thereto to any board or public corporation organized under Section 11-50-1 et seq. of the Code of Alabama 1975, or to any board created or established by any subsequent act providing for the incorporation of like boards to own and operate any such plant and/or systems, the members of which board will not be elected by the qualified voters of the city of _____"

"NO _____ YES _____"

Section 23. Any person desiring to become a candidate at any election which may be held under this act for the office of mayor or associate commissioner may become such candidate by filing in the office of the mayor or commission of the city, if at the first election of the commission under this act, or with the commission at any subsequent election, a statement of candidacy, accompanied by affidavit taken and certified by the mayor or by any member of the commission, or by a notary public, that such person is duly qualified to hold the office for which he desires to become a candidate. No person shall be eligible for such office unless he is over the age of twenty-one at the time he becomes a candidate, or unless he is qualified to vote in the election at which he shall be elected. The statement shall be filled at least twenty days before the day set for such election, and shall be substantially in the following form:

"State of Alabama, Houston County, I, the undersigned, being first duly sworn, depose and say that I am a citizen of the City of Dothan in said State and County and reside at _____ in said City; that I desire to become a candidate for the office of _____ (inserting mayor, associate commissioner for Ward 1, 2, 3, or 4 as the case may be) in said city to be held on the day of _____; that I am duly qualified to hold said office if elected thereto, and I hereby request that my name be printed upon the official ballot at said election. (signed)_____. Subscribed and sworn to before me by said _____ on this the _____ day of _____, 19____, and filled in this office for record on said day. _____(style of officer)."

Section 24. No name shall appear upon the ballot as a candidate for election except the names of such persons as have become candidates according to the provisions hereinabove set forth; and no ballots shall be used at any such election except the official ballot prepared by the city.

Section 25. In case any person, after having been elected and duly qualified as commissioner, is declared ineligible to hold such office, a successor shall be chosen as in the case of a vacancy caused by death, resignation, or other cause.

Section 26. Every person elected to the office of commissioner shall, on or before the first Monday of October next succeeding his election, qualify by making oath that he is eligible for the office and will execute the duties of same according to his best knowledge and ability. The oath shall be administered by the retiring mayor, or by a notary public, or by a member of the commission. The mayor shall give bond with sufficient sureties in an amount not less than twenty thousand dollars (\$20,000) nor

more than one hundred thousand dollars (\$100,000) such amount to be fixed and the bond to be approved by the board of commissioners, payable to the city, conditioned upon the faithful performance of his duties as commissioner and mayor. For the same purposes and reason each of the associate commissioners shall give bond with sufficient sureties in the amount of ten thousand dollars (\$10,000), all of which bonds shall be approved by and filed for record with the probate judge of the county and recorded in his office, for which the judge of probate shall receive one dollar (\$1.00) to be paid by the commissioner.

Section 27. Whenever any vacancy occurs in the office of any commissioner, by death, resignation, or removal, then his successor shall be appointed by the remaining members of the board of commissioners of the city, not more than thirty (30) days from the time such vacancy occurs; otherwise, the vacancy will be filled by the legislative delegation. Every person who is appointed to the office of commissioner in any such city under the provisions of this section shall qualify for office as soon as practicable after such appointment and shall be clothed with the duties and responsibilities and powers of such office immediately upon such qualification. He shall hold office for the unexpired term of his predecessor.

Section 28. The employees of the city shall be selected by the commissioners solely on account of their fitness, and without regard to political affiliations. It shall be unlawful to hold any party caucus or primary for the purpose of nominating any employee to be selected by such commissioners, and any person who shall solicit, receive, or accept a party or caucus nomination for any office to be filled by the commissioners shall thereby be rendered ineligible for such office or for any other office under the city for a period of one year thereafter.

Section 29. It shall be unlawful for any candidate for office, or any officer in the city, directly or indirectly, to give or promise any person or persons an office, position, employment, benefit, or anything of value for the purpose of influencing or obtaining the political support, aid, or vote of any person or persons, or for any candidate to provide or use any hacks, automobiles, or other vehicles for the purpose of transporting voters to the polls on election day.

Section 30. Each candidate for city office provided for by this act shall, not later than 30 days after the election, file with the county judge of probate his sworn itemized statement in detail of each contribution received by him or any person or committee acting in his behalf, specifying the amount of same, the full name

and address of the contributor, and each campaign-related expenditure in excess of fifty dollars (\$50.00), specifying the name and address of the person or company to whom the expenditure was made. The statement shall also list the total amount of contributions received and the total amount of campaign expenditures made by the candidate or any person or committee acting in his behalf. The statement shall be published one time, at the expense of the city, in a newspaper of general circulation in the city.

Section 31. No officer or employee elected or appointed in the city shall be interested, directly or indirectly, in any contract for work or material, or the profits thereof, in any services to be furnished or performed, for the city; and no such officer or employee shall be interested, directly or indirectly, in any contract for work or materials, or the profits thereof, or in any services to be furnished or performed, for any person, firm or corporation operating interurban railway, street railway, gas works, electric light or power plant, heating plant, telegraph line, or telephone exchange within the territorial limits of the city.

Section 32. No commissioner or any other official of the city, nor any employee thereof, shall be interested in any corporation operating any public service utility within the city; provided, however, this shall not apply to any employment or interest existing at the time of the selection or election of such commissioner or other official.

Section 33. No officer or employees of the city shall accept or receive, directly or indirectly, from any person, firm, or corporation operating within the territorial limits of the city any railroad, interurban railway, street railway, gas works, water works, electric light or power plant, heating plant, telegraph line or telephone exchange or other business using or operating under a public franchise, any frank, free pass, free ticket, or free service, or accept or receive, directly or indirectly, from any such person, firm or corporation, any gift or other thing of value, or any service upon terms more favorable than are granted to the public generally. Every such contract or agreement shall be void.

Such prohibition of free transportation shall not apply to policemen or firemen in uniform, nor to policemen in the discharge of their duty; nor shall any free service to city officials heretofore provided by any franchise or ordinance be affected.

Section 34. The board of commissioners shall, each quarter, print in pamphlet form a detailed statement of all receipts and expenses of the city and a summary of its proceedings during the preceding quarter and furnish printed copies thereof to the daily

newspapers of the city, and to persons who apply therefor.

Section 35. At the end of each year the board of commissioners shall cause a full and complete examination of all the books and accounts of the city to be made by competent accountants, and shall publish the result of such examination in the manner above provided for publication of statements of quarterly expenditures; and the Governor may at any time, have all the books and accounts of such city examined by a state examiner of public accounts, the cost of such examination to be paid by such city upon the presentation to the president of the board of commissioners of the city of a duly verified statement of such expenses made by such examiner of public accounts, approved by the Governor.

Section 36. Any person offering to give a bribe, either in money or other consideration, to any voter for the purpose of influencing his vote at any election provided in this act, or any voter entitled to vote at such election, receiving and accepting such bribe or other consideration, or any person making false answer to any of the provisions of this act relative to his qualifications to vote at an election, or any person willfully voting or offering to vote at such election who has not complied with the residency requirements provided for by general law, or who is not voting age, or is not a citizen of the United States, or knowing himself not to be a qualified voter of the precinct, where he offers to vote, or any person knowingly procuring, aiding, or abetting any violation hereof, shall be deemed guilty of a misdemeanor.

Section 37. Any employee of the city who solicits support for any candidate for mayor or associate commissioner, or any such employee who endeavors to influence any voter to vote for or against any candidate for mayor or associate commissioner, shall be deemed guilty of a misdemeanor.

Section 38. It shall be unlawful for any candidate for mayor or associate commissioner, or for any other person in his behalf, to hire or pay, or agree to pay, any person to solicit votes at the polls on election day, and it shall also be unlawful for any person to accept such hire, or make such contract for pay, to solicit votes for any candidate for mayor or associate commissioner.

Section 39. Should a vacancy exist simultaneously from any cause hereinabove provided for in three commissionerships, so as to leave no quorum of said board to fill same, an election to fill the vacancies shall be called by the remaining commissioners, to be held not less than twenty nor more than thirty days from the occurrence of the third vacancy. Notice of the election and of the time of holding the same shall be given by one publication at least

fifteen days in advance of same in one or more newspapers in the city at the expense of the city. The commissioners chosen at this election shall qualify as speedily as possible thereafter. They shall serve for the unexpired portions of the terms of their predecessors.

Section 40. The judge of probate of Houston County shall record in a well-bound book, kept for that purpose, all papers required to be filed with them under this act, and shall receive therefor the compensation allowed by law for recording deeds.

Section 41. Any person wilfully violating any provision of this act relating to the commission form of government shall be guilty of a misdemeanor, and, on conviction, shall be fined not less than fifty (50) nor more than five hundred (500) dollars, and may, at the discretion of the court trying the case, be sentenced to hard labor for the county for a term not to exceed six months, and such offenses shall be grounds for removal from municipal office.

Section 42. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 43. All laws or parts of laws which conflict with this act are repealed to the extent of such conflict.

Section 44. The provisions of this act shall become effective on October 1, 1979, or upon its otherwise becoming a law, except as otherwise provided herein.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-538

H. 952—Manley, Pegues

AN ACT

Relating to Marengo County; to repeal Section 15 of Act No. 311, H. 904, 1923 Regular Session (Acts 1923, p. 188), which act established the county governing body, so as to remove the requirements that the county governing body annually inspect and examine all public roads and bridges and meet for the purpose of hearing complaints and obtaining the views of the citizens of each district.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 15 of Act No. 311, H. 904, 1923 Regular Session (Acts 1923, p. 188) is hereby repealed and shall have no further force or effect of law. The remaining sections and provisions of Act No. 311, H. 904, 1923 Regular Session (Acts 1923,

p. 188), as amended, shall not be affected by the terms of this act.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 11:45 A.M.

Act No. 79-539

S. 187—Cook, Pearson, Parsons,
Proctor, Denton, Smith and
Holmes

AN ACT

To amend Section 36-7-21, Code of Alabama 1975, which provides for authorization of out-of-state travel, so as to provide further for said authorization.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 36-7-21, Code of Alabama 1975, is hereby amended to read as follows:

Section 36-7-21. Persons traveling in the service of the state or any of its departments, institutions, boards, bureaus, commissions, councils, committees or other like agencies, except such institutions of higher learning as are under the control of a board of trustees and Alabama State University, outside the state of Alabama shall be allowed all of their actual and necessary expenses in addition to the actual expenses for transportation; provided that such travel shall have first been fully authorized in writing by the governor; provided further, that with respect to the legislative department, members of the legislature, subordinate officers and employees of the legislature and the directors and employees of the legislative departments (Legislative Reference Service, Legislative Fiscal Office and Examiners of Public Accounts), such travel shall be authorized in writing by the Lieutenant Governor for the Lieutenant Governor and members of the Senate, by the Speaker of the House for the Speaker of the House and members of the House of Representatives, by the Secretary of the Senate or the Clerk of the House for subordinate officers and employees of the legislature and by the directors for the directors and employees of the legislative departments; and with respect to the judicial department, the officers and employees thereof, such travel shall be authorized in writing by the Chief Justice. Persons representing the excepted institutions of higher learning shall receive authority for out-of-state travel from the president of said institutions."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 5:13 P.M.

Act No. 79-540

H. 580—Gafford, Amari, Bedsole, Bennett, Blake, Bowling, Brakefield, Carter, Cheatwood, Cobb, Crow, Gregg, Horn, Howard, Kennedy (Y), Laird, Langford, Lewis, McKee, Moore, Payne, Rains, Reed, Riddick, Shavers, Stout, Waggoner, Willis

AN ACT

To provide up to a 7% cost-of-living increase for all certified employees and full-time support personnel paid from state funds in the elementary-secondary schools, and the Alabama Institute for Deaf and Blind paid from state funds, and for all full-time academic instructional personnel in the Department of Youth Services paid from state funds, for full-time instructional staff for junior, technical, and community colleges paid from state funds, and to identify the funds from which said cost-of-living increase and other fringe benefits shall be paid and to provide a procedure for determining availability and paying out of such funds. Also additional funds to Athens State College and the universities.

Be It Enacted by the Legislature of Alabama:

SECTION 1. The state Budget Officer shall determine the amounts necessary to pay funds appropriated for each quarter of the fiscal year ending September 30, 1980 under the Educational Appropriation Act and any other appropriations by the 1979 Regular Session from the Alabama Special Educational Trust Fund, and appropriation bills for Tuskegee Institute, Lyman Ward, Marion Institute, Walker Junior College, and Talladega College. The state Budget Officer shall further determine the amount for each such quarter, in excess of said appropriations, which must be reserved in order to establish an unappropriated ending balance of \$11,447,537 in the Alabama Special Educational Trust Fund on, and for the fiscal year ending, September 30, 1980. To the extent revenues accrue to the Alabama Special Educational Trust Fund for each of the four quarters of the fiscal year in amounts beyond those funds necessary to pay the above-mentioned

appropriations and establish the said unappropriated ending balance, the Budget Officer shall certify those additional funds, if any, as being available to provide salary increases made herein.

SECTION 2. All revenue received by the Alabama Special Educational Trust Fund and not required for the appropriations and unappropriated ending balance described above is hereby available for an increase in salaries for the 1979-80 Fiscal Year up to the amount and in the manner hereinafter prescribed.

The Budget Officer shall allocate funds to the State Board of Education for disbursement to the local school systems, the technical, junior, and community colleges, to the board of the Alabama Institute for Deaf and Blind, to the board of the Department of Youth Services, and to the respective boards of the public colleges and universities.

(a) Teacher units funded by the Alabama Special Educational Trust Fund for all elementary-secondary programs (including vocational) and certified academic and vocational instructors at the Alabama Institute for Deaf and Blind and in the Department of Youth Services shall receive an increase of up to 7% of the state salary allocated in 1978-79 Fiscal Year.

(b) Full-time lunchroom workers, bus drivers, and all other support personnel in the elementary-secondary systems and at the Alabama Institute for Deaf and Blind shall receive an increase of up to 7% of state salary allocated in 1978-79 Fiscal Year.

(c) The State Board of Education shall receive an appropriation based on all full-time instructors, librarians, and counselors in the technical colleges of up to 7% of the state salary allocated in the 1978-79 fiscal year, to be distributed to the said technical colleges.

(d) The State Board of Education shall receive an appropriation based on all full-time instructors, librarians, and counselors in the junior colleges of up to 7% of the state salary allocated in the 1978-79 fiscal year, to be distributed to the said junior colleges.

(e) Athens State College and the universities shall receive an appropriation based on full-time instructional staff of up to 7% of state salary allocated in the 1978-79 Fiscal Year. However, it is the intent of the Legislature that said funds be used to grant cost of living raises on a fair and equitable basis for all classifications of personnel of said college and universities. Provided, however, Athens State College and the universities under this subsection shall have authority to transfer funds between line items to grant

cost-of-living increases to full-time support personnel, the intent of the Legislature being that the funds be used to grant cost-of-living raises on a fair and equitable basis for all personnel of said college and the universities. However, the above language shall not be construed to prohibit the college administration from basing such raises on merit at the discretion of the administration.

SECTION 3. In addition to the provisions provided for in Section 2(a) and (b) the Governor is hereby authorized to allocate up to \$135,000 dollars for liability insurance for teachers as a fringe benefit from the funds provided for in the Governor's war on illiteracy.

SECTION 4. For the purpose of the Budget Officer making calculations of the money required to fund this appropriation, the State Superintendent of Education shall certify to the Budget Officer the number of teacher units allocated to each school board from state funds, the number of support personnel paid from state funds under each school board, and the number of full-time instructors, librarians, and counselors at each technical, junior, and community college paid from state funds. The President of the Alabama Institute for Deaf and Blind shall certify the number of full-time certified instructional staff and support personnel at that institution paid from state funds. The Director of the Department of Youth Services shall certify to the Budget Officer the number of full-time academic and vocational teachers and activities program supervisors paid from state funds in the Department. Each college or university president shall certify to the Budget Officer the amount necessary to comply with Section 2 (e).

SECTION 5. Upon the allocation by the Budget Officer, the state Treasurer shall issue a warrant in the amount determined to be available for the said quarter by the Budget Officer.

SECTION 6. Payments shall be made by the state Treasurer on January 1, April 1, July 1, and September 30, 1980, or as soon thereafter as possible.

SECTION 7. In the event the full quarterly entitlement is not available in any quarter, such deficit shall be made up in subsequent quarters as funds are available.

SECTION 8. All laws or parts of laws which conflict with this act are hereby repealed.

SECTION 9. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

SECTION 10. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 5:14 P.M.

Act No. 79-541

S. 142—Cook and Parsons

AN ACT

To propose a constitutional amendment amending further subsection (a) of Section 217, Constitution of Alabama of 1901, as amended by Constitutional Amendment No. 325 and Constitutional Amendment No. 373, relating to ad valorem property taxes levied by the state and all counties, municipalities and other local taxing authorities.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to subsection (a) of Section 217 of the Constitution of Alabama of 1901, as amended, is hereby proposed:

PROPOSED AMENDMENT

“Section 217. (a) On and after October 1, 1978, all taxable property within this state, not exempt by law, shall be divided into the following classes for the purposes of ad valorem taxation:

Class I. All property of utilities used in the business of such utilities.

Class II. All property not otherwise classified.

Class III. All agricultural, forest and residential property, and historic buildings and sites. Licensed hotels and motels are not deemed to be residential property.

Class IV. All private passenger automobiles and motor trucks of the type commonly known as “pickups” or “pickup trucks” owned and operated by an individual for personal or private use and not for hire, rent or compensation.”

Section 2. ELECTION ORDERED: DATE OF ELECTION. An election upon the proposed amendment is ordered to be held on the date of the next general or special election after the expiration of three months from final adjournment of the current session of the Legislature. The election shall be held in accordance with the provisions of Section 284 and Section 285 of the Constitution of Alabama 1901, as amended, and Title 17, Chapter

17, Code of Alabama, 1975.

Section 3. NOTICE OF ELECTION. Notice of the election on the proposed amendment shall be given by proclamation of the Governor, published in a newspaper in each county in the state once a week for four successive weeks next preceding the day appointed herein for the election, and in any county in which there may be no newspaper published, the notice shall be posted at each courthouse therein.

CONSTITUTIONAL AMENDMENT

Passed the Senate as amended June 14, 1979

Passed the House as amended July 12, 1979

Passed the Senate as amended by Conference Committee
Report July 18, 1979

Passed the House as amended by Conference Committee
Report July 30, 1979

Act No. 79-542

S. 258—Smith, Cook, McDonald,
Mitchem, Taylor, Holmes,
Keener, Denton and Britnell

AN ACT

To amend extensively the "Sunset Act of 1976", in particular: Sections 40-20-2 through 40-20-5 and 40-20-10 through 40-20-14 of the Code of Alabama, 1975, as amended, so as to further define and provide for the termination and review of certain agencies regulating occupations and professions; to eliminate numerous agencies from the purview of the provisions of this act with the option of the Sunset Committee to call and schedule agencies for review; to prescribe that the agencies designated herein shall terminate on a date certain unless each house passes by a majority vote a bill for an act to continue, modify or reestablish the agency; to allow the committee flexibility in its recommendations for the agency under consideration; to reconstitute the membership of the Sunset Committee and to provide for the chairman to be elected from among the membership; to remove certain ex officio members and to add others to the committee; to provide that an agency not voted on by sine die of the legislature in the regular session preceding its scheduled termination shall be terminated and its only allowable function shall be to wind up its affairs; to provide for any licenses issued with expiration dates beyond that of the life of an agency; and to provide the circumstances under which penalties for engaging in professional or occupational activities, when the regulatory agency therefor has been abolished, shall be non-enforceable.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 41-20-2 through 41-20-5 and 41-20-10 through 41-20-14 of the Code of Alabama, 1975, as amended are

hereby amended to read as follows:

“§ 41-20-2. As used in this chapter, unless the context requires a different meaning, the following words shall be defined as follows:

“(1) AGENCY. All departments, councils, boards, commissions, divisions, bureaus or like governmental units or subunits of the State of Alabama which are regulatory in nature.

“(2) CONTINUANCE. Such term, or any derivative thereof, shall mean continuance as presently in existence or as modified or reestablished by recommended legislation.

“(3) PERFORMANCE AUDIT. The same as operational audit.

“(4) TERMINATION. The end, abolishment or annulment of any agency or the act of causing the existence to cease.

“§ 40-20-3. (a) The following agencies shall automatically terminate on the dates specified, unless they have received a majority vote by each house of the legislature that they be continued, modified or reestablished:

“(1) October 1, 1982 shall be the termination date for:

“a. State board of auctioneers - created by section 34-4-50.

“b. State board of barber examiners - created by section 34-5-13.

“c. Alabama board of cosmetology - created by section 34-7-40.

“d. Boxing and wrestling commission - created by section 41-9-90.

“e. Examining board for professional entomologists, horticulturists, floriculturists and tree surgeons - created by section 28-2-2.

“f. Alabama board of funeral services - created by section 34-13-20.

“g. State pilotage commission - created by section 33-4-1.

“h. State polygraph examiners board - created by section 34-25-4.

“i. State board of examiners for speech pathology and audiology - created by section 34-28A-40.

"j. State board of veterinary medical examiners - created by section 34-29-20.

"(2) October 1, 1983, shall be the termination date for:

"a. Alabama real estate commission - created by section 34-27-7.

"b. Board of bar examiners - created by section 34-3-2.

"c. Board of registration for sanitarians - created by section 34-28-20.

"d. Board of examiners of mine personnel - created by section 25-9-9.

"e. Board for registration of architects - created by section 34-2-20.

"f. Board of examiners of landscape architects - created by section 34-17-2.

"g. Alabama state board of public accountancy - created by section 34-1-3.

"h. State board of registration for foresters - created by section 34-12-30.

"i. State board for registration of professional engineers and land surveyors - created by section 34-11-30.

"j. State licensing board for general contractors - created by section 34-8-20.

"(3) October 1, 1984, shall be the termination date for:

"a. State board of chiropractic examiners - created by section 34-24-140.

"b. Alabama firefighters' personnel standards and education commission - created by section 36-32-2.

"c. Board of hearing aid dealers - created by section 34-14-30.

"d. Board of optometry - created by section 34-22-40.

"e. Alabama peace officers' standards and training commission - created by section 36-21-41.

"f. Board of physical therapy - created by section 34-24-192.

"g. Board of plumbing examiners - created by section 40-12-145.

"h. Board of examiners in psychology - created by section 34-

26-20.

"i. Board of social worker examiners - created by section 34-30-50.

"j. State board of heating, air conditioning, roofing and sheet metal contractors - created by section 34-31-2.

"(4) October 1, 1985, shall be the termination date for:

"a. Alabama water well standards board - created by section 22-24-3.

"b. Board of certification of water and waste water systems operators - created by section 22-25-3.

"c. State licensing board for the healing arts - created by section 34-24-1.

"d. State board of medical examiners - created by section 34-24-53.

"e. Board of medical technicians examiners - created by section 34-18-40.

"f. Board of dental examiners - created by section 34-9-40.

"g. Board of nursing - created by section 34-21-2.

"h. State board of examiners of nursing home administrators - created by Section 34-20-4.

"i. State board of pharmacy - created by section 34-23-90.

"j. State board of podiatry - created by section 34-24-250.

"(b) Any state agency regulating occupations or professions existing on the effective date of this act and not specifically listed in this section shall be terminated on October 1, 1983, and the provisions of this chapter shall apply to them as if they were enumerated in this chapter and acted on by the legislature and governor as provided in this chapter.

"(c) Any law to the contrary notwithstanding, nothing in this act shall be construed to limit the joint committee's right to call any agency for review at a date earlier than specified in this section; nor shall the committee be limited to making recommendations for termination only or continuance only. The committee shall establish its own schedule for review; provided, however, each agency shall be reviewed at least once every four (4) years. Further, the committee shall determine which other regulatory agencies not enumerated in this section which it shall review, and upon such

review said agency shall have a termination date of the first succeeding October 1 following the regular legislative session which succeeded said review by and recommendation of the committee.

“§ 41-20-4.

“(a) A select joint committee, known as The Sunset Committee, shall be constituted as follows:

“(b) Three members of the house and three members of the senate shall be elected in the same manner as the elected members of the legislative council by the respective houses: two from the Alabama Senate and two from the Alabama house of representatives shall be appointed by the presiding officer of said elected bodies; and the president pro tempore of the senate and the speaker pro tem of the house of representatives. The chairman shall be elected from among the members of the committee, alternating annually between a house member and a senate member.

“(c) Said select joint committee shall be charged with the duty of assisting in the implementation of the procedures of this chapter and shall be charged with the duty of establishing administrative procedures which shall facilitate the review and the evaluation procedure as provided for in this chapter.

“(d) The committee shall submit its report to the offices of the speaker and the president for distribution to legislators and the governor on or before the first legislative day of the ensuing regular legislative session. The committee shall submit a report of its recommendations to the legislature in an appropriate form so that the legislature may vote to accept or reject the recommendation with respect to each agency. If the committee's recommendation is that the agency be continued and the legislature votes to accept the recommendation such agency shall be continued. If the committee's recommendation is that the agency be terminated such agency shall be terminated upon the date specified in section 41-20-3. If the legislature votes not to accept the recommendation, then the agency shall be continued. The committee shall file with its report data in support of its recommendations with respect to each agency. The committee shall use sections 41-20-8 and 41-20-9 as the guideline in preparing its report; provided, however, nothing in this section shall be construed to prohibit the committee from using other pertinent criteria and methods.

“(e) The committee members shall be entitled to their usual legislative per diem and expenses for attending meetings of the committee which shall be paid from funds appropriated for the

payment of expenses of the legislature. There shall be no limitation upon the number of days the committee or any subcommittee thereof shall meet; provided, however, the members shall be entitled to payment only for the days they are actually engaged in committee business.

“§ 41-20-5. Legislative committee review of the agencies shall begin in the year prior to the scheduled regular legislative session next preceding the date upon which the agencies are scheduled to terminate pursuant to section 41-20-3, and shall conclude with a recommendation for continuation or termination on or before the first legislative day immediately following said review. The committee is authorized to call other agencies for review, whether or not herein enumerated, with no less than thirty days notice in writing, to the director or head of such agency.

“§ 41-20-10. On the tenth legislative day of the regular session, one hour after the last house convenes, voting in the respective houses of the legislature on the joint committee's recommendations shall commence and thereafter shall continue, from day to day, until voting on all the recommendations with respect to each agency is completed, as the first order of business. Modification or continuance of any agency, unit or subunit shall be by bill for an act passed by simple majority roll call vote of both house and senate; provided, however, if no vote is taken prior to the termination of debate then in that event the agency shall terminate automatically as provided herein. Debate on the modification or continuance of any agency shall not continue beyond the period of two hours from the start of debate on each vote and a recorded vote must be taken at the expiration of said debate.

“Debate as used in this section shall mean two hours total time allocated for discussion on each agency considered. At the end of this two-hour period of time allocated, which shall be continuous and uninterrupted, it shall be mandatory that the president of the senate and the speaker of the house shall, in their respective houses, call for a recorded vote on whether to accept the recommendations with respect to the agency in question.

“§ 41-20-11. No more than one agency shall be continued, modified or reestablished in any one bill for an act as provided for in section 41-20-4, and such agency shall be mentioned in the title as provided by law.

“§ 41-20-12. Any agency specified which is terminated shall cease its affairs on the date specified in section 40-20-3 of this act. From the date of sine die of the regular legislative session, immediately preceding the date of termination, any agency

automatically terminated because of the legislature not continuing, modifying or reestablishing it, shall exercise no functions or powers except to administratively wind up its affairs. Upon the termination date such agency and its personnel positions shall be abolished with all unexpended funds reverting back to the state fund from which its appropriation was made. Any license issued by such agency, which has an expiration date after the agency's date of termination, shall expire on the effective date of the agency's abolishment. Any penalties for engaging in any profession or activity without being licensed therefor shall not be enforceable with respect to activities occurring after the agency has ceased its functions pursuant to this act.

“§ 41-20-13.

“(a) The life of any agency scheduled for termination under this chapter may be continued, modified or reestablished on a roll call vote of the Legislature, as provided herein, after which time review and evaluation pursuant to the provisions of this chapter shall be repeated.

“(b) Any newly created agency shall have a life, stated in its enabling legislation, not to exceed four years and shall be subject to the provisions of this chapter.

“§ 41-20-14.

“(a) This chapter shall not cause the dismissal of any claim or right of any citizen which is subject to administrative hearing or litigation against any state agency terminated pursuant to the provisions of this chapter.

“(b) The state comptroller is authorized to draw warrants on the state treasury for any outstanding accounts which are legally owed but unsettled by any agency which has ceased functioning pursuant to this act. Such claims must be presented and paid in the same manner as required by law for any claim for the payment of state funds.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law, except as otherwise herein provided.

This Act became a law under Section 125 of the Constitution on July 31, 1979, without approval by the Governor.

Relating to St. Clair County; to amend Act No. 515, H. 1028, Regular Session 1969 (Acts 1969, p. 985) entitled "An Act Relating to St. Clair County; levying a privilege license or excise tax upon sellers, distributors or users of malt or brewed beverages, said privilege license or excise tax to vary in amount based upon the location within St. Clair County where said sale of malt or brewed beverages is consummated; providing for the administration of this act and the collection and use of the proceeds of the tax; providing penalties for violations," so as to levy further a privilege, license or excise tax upon sellers, distributors, or users of malt or brewed beverages and to provide further for the distribution of the proceeds of said tax; and to provide for its retroactive effect.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 515, H. 1028, Regular Session 1969 (Acts 1969, p. 985) is hereby amended to read as follows:

"Section 1. A county privilege, license or excise tax is hereby imposed upon every seller, distributor, storer or user of any malt or brewed beverages (including beer, lager beer, ale, porter, or similar fermented malt liquor containing one-half of one percent or more of alcohol by volume) in St. Clair County. The tax shall be an amount equal to one cent of each four fluid ounces, or fractional part thereof, of malt or brewed beverages sold, used, consumed or distributed in the county. The tax shall be in addition to all other taxes heretofore or hereafter levied on such beverages; provided, that where the amount of the tax imposed by this act shall have been paid to the county by any seller, distributor, dealer, or user, such payment shall be sufficient, the intent being that the tax levied by this act shall be paid but once."

Section 2. Section 10 is hereby amended to read as follows:

"Section 10. The proceeds of the tax imposed by this act shall be paid into the General Fund in the county treasury and the proceeds of such tax shall be disbursed out of the County Treasury as follows: There shall be paid to each municipality on or before the 25th day of each month an amount equal to $\frac{1}{3}$ of one cent on each four fluid ounces or fractional part thereof of malt or brewed beverages sold, used, consumed or distributed within the corporate limits of such municipality plus $\frac{1}{6}$ of one cent of each four fluid ounces or fractional part thereof of malt or brewed beverages sold, used, consumed, or distributed within the police jurisdiction of such city. After the payment to the municipalities as set out above the county treasury shall on or before the 25th day of each month pay $\frac{5}{12}$ of the remaining tax to the St. Clair County Board of Education and $\frac{2}{12}$ of the remaining tax to the St. Clair County Library Board, which money shall be used by said board for the operation of libraries, and/or bookmobiles throughout the county. The remaining $\frac{5}{12}$ of the tax shall remain in the General Fund of St. Clair County to be disbursed by the St. Clair County governing body as any other funds of the county are disbursed. Any

surplus remaining that has been accumulated, or will be accumulated, plus interest, will be divided among municipalities, Board of Education, Library Board, and St. Clair County according to the percentage of tax collected by each agency.

"There shall also be calculated the expense of collecting the tax provided for in this act, and each municipality, the St. Clair County Board of Education, St. Clair County Library Board, and St. Clair County shall bear its prorata share of such expenses based upon the amount to be received by each from the proceeds of said tax. Said prorata share of the expense of collecting said tax shall be deducted prior to the disbursement of any monies to any municipality, St. Clair County Board of Education, St. Clair County Library Board and St. Clair County."

Section 3. The provisions of this act are curative and remedial and shall have retroactive effect to August 21, 1969, and any actions taken or payments made in accordance with the provisions of this act since said date are hereby ratified, validated and confirmed.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-544

H. 226—Manley

AN ACT

To provide a procedure for cancelling shares of a corporation which have been purchased or reacquired by it and for reducing stated capital by the amount represented by the shares, the effect of which will be to provide a procedure for restoring treasury shares to the status of authorized but unissued shares.

Be It Enacted by the Legislature of Alabama:

Section 1. A corporation may at any time, by resolution of its board of directors, cancel all or any part of the shares of the corporation of any class reacquired by it, other than redeemable shares redeemed or purchased, and in such event a statement of cancellation shall be filed as provided in this Section.

The statement of cancellation shall be executed for the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, and shall set forth:

(a) The name of the corporation.

(b) The number of reacquired shares cancelled by resolution duly adopted by the board of directors, itemized by classes and

series, and the date of its adoption.

(c) The aggregate number of issued shares, itemized by classes and series, after giving effect to such cancellation.

(d) The amount, expressed in dollars, of the stated capital of the corporation after giving effect to such cancellation.

Such statement of cancellation shall be filed in the office of the judge of probate of the county in which the corporation was organized, unless the corporation shall have been created by an act of the legislature prior to the adoption of the Constitution of 1901, or results from a merger or consolidation in which events such certificate shall be filed in the office of the Secretary of State and need not be filed in the office of the judge of probate. Upon the filing of such statement of cancellation, the stated capital of the corporation shall be deemed to be reduced by that part of the stated capital which was, at the time of the cancellation, represented by the shares so cancelled, and shares so cancelled shall be restored to the status of authorized but unissued shares.

Nothing contained in this Section shall be construed to forbid a cancellation of shares or a reduction of stated capital in any other manner permitted by law.

Section 2. This Act shall take effect immediately upon its passage by the Legislature and approval by the Governor, or upon its otherwise becoming law.

Approved July 30, 1979

Time: 5:00 P.M.

Act No. 79-545

H. 296—Carter, Kelley, Roberts,
Patton, Letson

AN ACT

To regulate further the hunting of migratory waterfowl; to provide for the issuance of migratory waterfowl stamps and for the collection of fees therefor; to provide for the procurement, development, restoration, maintenance, or preservation of wetlands for waterfowl habitat and for public waterfowl hunting areas; and to require the state department of conservation and natural resources to carry out the provisions of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. Whenever used in this act, the following words and terms shall have the following respective meaning unless the

context clearly indicates otherwise:

(a) "Migratory Waterfowl" means any wild duck, wild goose, brant, or coot (poule d'eau).

(b) "Department" means state department of conservation and natural resources.

(c) "Stamp" means the state migratory waterfowl stamp furnished by the department.

Section 2. This act shall be construed in furtherance of the purpose thereof, which is to insure the procurement, development, restoration, maintenance, or preservation of wetlands for migratory waterfowl habitat.

Section 3. A person shall not hunt migratory waterfowl within the state of Alabama or its coastal waters without first procuring a state migratory waterfowl stamp and having such stamp in his possession validated by his signature written across the face of the stamp in ink while hunting or taking migratory waterfowl. The form of the stamp shall be determined by the department and the department shall furnish the stamps to the judge of probate or issuing officer of the counties for issuance or sale in the same manner as state hunting licenses are issued or sold.

Section 4. A stamp shall be issued to each hunting license applicant upon written request to the judge of probate or issuing officer of any county of the state on forms provided by the department and the payment of a fee of five dollars (\$5.00). Each stamp shall be valid for the duration of one hunting season as established by the department. Stamps shall be available for sale prior to any waterfowl season, including any special season which may precede the regular season.

The judge of probate or issuing officer shall be allowed a fee of twenty-five cents (25¢) for each such license issued by him, which issuing fee shall be in addition to the cost of the stamp. In counties where the probate judge or issuing officer is on the fee system, the issuing fee shall be retained by the probate judge or issuing officer, and in counties where the probate judge or issuing officer is on a salary basis, the fee shall be paid by him into the county treasury to the credit of the appropriate fund.

Section 5. The revenue derived from the sale of the stamp provided for herein shall be remitted to the department on the first day of each month by the judge of probate or issuing officer and shall be covered into the state treasury to the credit of the game and fish fund and shall be used for projects approved by the department

for the procurement, development, restoration, maintenance, or preservation of wetlands, for waterfowl habitat, and the development or improvement of controlled public waterfowl hunting areas, except that part which is specified by the department for use in paying administrative expenses. No part of revenues derived from the sale of this stamp shall be used to pay administrative expenses not directly related to waterfowl management and no part of revenues shall be used to pay enforcement expenses.

No part of the revenues derived from the sale of this stamp shall be used to replace revenues and allocations presently being made by the department for management of waterfowl refuges and public waterfowl hunting areas.

No part of the revenues derived from the sale of this stamp shall be used to maintain, procure, or restore habitat for other wild game except where their occurrence is coexistent with migratory waterfowl. The department may enter into contracts with non-profit organizations for the use of one-half of such funds outside the United States if the department finds that such contracts are necessary for carrying out the purposes of this act.

Section 6. Before approving and allocating funds for a proposed project to be undertaken outside the United States, the department shall obtain evidence that the project is acceptable to the government agency having jurisdiction over the lands and waters affected by the project.

Section 7. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 8. All laws or parts of laws which conflict with this act are hereby repealed.

Section 9. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 5:30 P.M.

To amend Section 8 of Act No. 138, S. 1 of the 1978 Second Special Session (Acts 1978, p. 1883) which section prescribes the use of bond proceeds, issued by the Alabama Public School and College Authority, for elementary-secondary school systems for capital improvements and educational purposes, so as to further prescribe the use of funds for Etowah County.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 8 of Act No. 138, S. 1 of the 1978 Second Special Session (Acts 1978, p. 1883) is hereby amended to read as follows:

“Section 8. The proceeds derived from each sale of the Bonds shall be deposited in the State Treasury and shall be carried in a separate fund therein for the account of the Authority, which shall pay therefrom the expenses of issuance thereof. The expenses of issuance of the Bonds shall be prorated among the recipients listed in this Act of the proceeds from the sale of the Bonds in the proportions they receive allocations of the proceeds hereunder. The proceeds from the sale of the Bonds remaining after payment of the expenses of issuance thereof shall be retained in the fund and paid out from time to time on orders or warrants issued by or on the direction of the Authority for any one or more of the purposes specified in Section 2 of this Act that may be deemed by the Authority to be most advantageous to the State, and the proceeds shall be used solely for those purposes and shall be allocated and expended by the Authority in the amount set out as follows:

“(a) Fifty-nine million dollars (\$59,000,000.00) to senior colleges and universities to be distributed as follows:

“(1) \$8,468,537.00 of the proceeds shall be distributed to the Board of Trustees of the University of Alabama to be used at its Tuscaloosa campus;

“(2) \$8,176,368.00 of the proceeds shall be distributed to the Board of Trustees of the University of Alabama to be used at its Birmingham campus;

“(3) \$3,529,812.00 of the proceeds shall be distributed to the Board of Trustees of the University of Alabama to be used at its Huntsville campus;

“(4) \$8,695,286.00 of the proceeds shall be distributed to Auburn University;

“(5) \$2,690,714.00 of the proceeds shall be distributed to Auburn University at Montgomery;

“(6) \$4,055,634.00 of the proceeds shall be distributed to the University of South Alabama;

“(7) \$2,952,994.00 of the proceeds shall be distributed to the University of Montevallo;

“(8) \$3,612,972.00 of the proceeds shall be distributed to the University of North Alabama;

“(9) \$3,713,318.00 of the proceeds shall be distributed to Jacksonville State University;

“(10) \$2,418,932.00 of the proceeds shall be distributed to Livingston University;

“(11) \$3,770,422.00 of the proceeds shall be distributed to Troy State University;

“(12) \$2,968,039.00 of the proceeds shall be distributed to Alabama Agricultural and Mechanical University;

“(13) \$2,946,972.00 of the proceeds shall be distributed to Alabama State University;

“(14) \$1,000,000.00 of the proceeds shall be distributed to Athens State College;

“(b) Twenty-seven million five hundred thirty-five thousand dollars (\$27,535,000.00) to junior colleges and vocational-technical institutes to be distributed as follows:

1. Alexander City State Junior College	\$	618,980
2. S. D. Bishop State Junior College		723,126
3. Brewer State Junior College		661,511
4. John C. Calhoun State Tech. Jr. Col.		948,814
5. Jefferson Davis State Jr. Col.		487,571
6. Enterprise State Junior Col.		696,135
7. Faulkner State Jr. Col.		735,940
8. Gadsden State Jr. Col.		1,187,692
9. Patrick Henry State Jr. Col		492,479
10. Jefferson State Jr. Col.		1,669,980
11. T. A. Lawson State Jr. Col.		1,581,305
12. Northeast Alabama State Jr. Col.		745,209
13. Northwest Alabama State Jr. Col.		515,653

14.	Snead State Junior College (Any proceeds allocated to this junior college may be used to redeem or repay presently outstanding debts or bonds issued or incurred for the purpose of providing educational or dormitory facilities for the junior college.)	\$ 613,255
15.	Southern Union State Jr. Col.	649,515
16.	George C. Wallace State Tech. Jr. Col., Dothan	540,410
17.	George C. Wallace State Jr. Col., Selma	438,718
18.	Lurleen B. Wallace State Jr. Col.	509,382
19.	Alabama Institute of Aviation Tech.	414,507
20.	Alabama Technical College--Gadsden	509,927
21.	Ayers State Technical College	435,771
22.	Bessemer State Technical College	635,066
23.	Calhoun State Tech. Trade School	322,031
24.	Carver State Tech. Trade School	394,331
25.	Drake State Technical College	479,665
26.	Gadsden State Technical Inst.	357,253
27.	Hobson State Technical Inst.	404,964
28.	MacArthur State Tech. Col.	456,219
29.	Muscle Shoals Tech. Inst.	453,220
30.	Northwest Alabama State Tech. Col.	437,952
31.	Nunnelley State Tech. Inst.	424,321
32.	Opelika State Technical Col.	454,310
33.	Patterson State Tech. Col.	486,753
34.	Reid State Technical Col.	395,421
35.	Shelton State Technical Col.	472,304
36.	Sparks State Technical Inst.	367,068
37.	Southwest State Tech. Col.	487,571
38.	Trenholm State Trade School	402,237

39.	Walker County State Trade School	\$	422,412
40.	Wallace State Tech. Trade School, Dothan		383,919
41.	Wallace State Tech. Inst., Hanceville		307,309
42.	Wallace State Tech. Inst., Selma		260,689
43.	Atmore Technical College		376,337
44.	Ingram State Technical Institute		395,149
45.	Regional Technical Institute		285,000
46.	George C. Wallace State Jr. College, Hanceville		350,385
47.	Alabama Institute for the Deaf and Blind		500,000
48.	Chattahoochee Valley State Jr. Col.		818,820
49.	Fredd State Technical College		391,332
50.	Lawson State Technical Institute		437, 082

“(c) One hundred fourteen million seven hundred fifty thousand dollars (\$114,750,000.00) for elementary-secondary school systems to be distributed as follows:

“(1) One hundred thousand dollars (\$100,000.00) shall be paid to each city and county board of education. Provided, however, all of the money appropriated in this subsection for the Madison County School System shall be allocated and appropriated for renovation and improvement of the New Market School.

“(2) Ninety-two million three hundred thousand dollars (\$92,300,000.00) shall be allocated and distributed to city and county boards of education, pro rata, on the basis of teacher units as determined in accordance with the minimum school program for the school year 1976-77. Provided, however, all of the money appropriated in this subsection for the Etowah County School System shall be allocated and appropriated for constructing and equipping a new middle school in Rainbow City.

“(3) The residue from the \$114,750,000, after providing for costs of issuance of the Bonds and paragraphs (1) and (2) of this subsection shall be allocated and distributed to city and county boards of education in accordance with their special needs, as determined by the Authority, and shall be used for the purposes described in Section 2 of this Act.

“(d) Two million eight hundred and twenty-five thousand (2,825,000) for repair and replacement of, and equipment for,

public school buildings which have been destroyed by fire or natural disaster or where there exist critical needs, such amount to be allocated as follows:

Board of Education	School	Amount
1. Gadsden City	General Forest School	\$ 275,000
2. Hartselle City	Morgan County Training School	290,000
3. Lamar County	Vernon Vocational School	15,000
4. Winfield City	Winfield Vocational School	100,000
5. Midfield City	Midfield School	200,000
6. Lawrence County	Chalybeate School	240,000
7. Madison County	New Market School	125,000
8. Marshall County	Boaz Middle School	315,000
9. Mobile County	Prichard Middle School	315,000
10. Randolph County	Folsom Junior High School	300,000
11. Shelby County	Montevallo High School	125,000
12. Shelby County	Vincent High School	125,000
13. Cullman County	Baileyton School	100,000
14. Tuscumbia City	Deshler Junior High School	100,000
15. Macon County	Tuskegee Public School	100,000
16. Bullock County	Merit Junior High School	100,000

to be distributed to the Board of Education of the City of Gadsden to be used (i) to pay the principal of any obligations incurred by the said board in the replacement or restoration and equipment of the General Forrest Jr. High which has been destroyed by fire, and (ii) to the extent not necessary for that purpose, to be expended for capital improvements for public educational purposes as a part of the City of Gadsden Public School System.

“(e) Sixteen million two hundred fifteen thousand (\$16,215,000) to be allocated for special and critical needs as follows:

1. Alabama A & M University	\$ 1,700,000
2. Alabama State University	600,000

3. Auburn University at Montgomery	130,000
4. Troy State University	750,000
5. Department of Youth Services (\$125,000 must be used to alter and improve the Harris Home in Huntsville)	625,000
6. Marine Science Consortium	150,000
7. University of Alabama in Birmingham Lab for training Public Health personnel	870,000
Spain Rehabilitation Center	750,000
Spain Lakeshore Center	750,000
End State Renal Disease	750,000
Art Center	1,000,000
Diabetes Clinic	600,000
8. Alabama Aviation State Technical School	450,000
9. Shelton State Technical School	400,000
10. Brewer State Junior College	400,000
11. Chattahoochee Valley State Junior College	1,650,000
12. Gadsden State Junior College	1,000,000
13. P. Henry State Junior College	200,000
14. Lawson State Junior College	400,000
15. Southern Union State Junior College	200,000
16. Wallace State Junior College, Dothan	950,000
17. Wallace State Junior College, Hanceville	1,840,000
18. Alabama Cooperative Extension Service Swine Demonstration Center at Headland	50,000

“(f) Each building constructed wholly or in part with any portion of the proceeds of the Bonds shall be constructed pursuant to plans and specifications approved by the Technical Staff of the Building Commission, or any agency that may be designated by the Legislature as its successor, and the costs of architectural and supervisory services shall be construed to constitute construction costs. The Authority may, from the proceeds of the Bonds allocated for the construction of a building, reimburse the Technical Staff for any expenses reasonably incurred by it in connection with its

approval of the plans and specifications pertaining to that building.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 5:30 P.M.

Act No. 79-547

H. 371—Harrison, Gafford

AN ACT

To amend Act No. 691, 1978 Regular Session (Now appearing as Code of Alabama 1975, Chapter 17-18A) which act relates to Presidential Preference Primaries, so as to change the date of such primaries, the method of filing petitions of candidacy, the selection and pledging of delegates to national conventions and the setting of filing fees; and to repeal Sections 6, 8, 9, 10, 11, 12, 13, 14, and 15 of said Act.

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 691, 1978 Regular Session, Sections 1, 3, 4, 5 and 7 are amended to read as follows:

“Section 1. Primary elections for the purpose of determining the preferred candidates for President of the United States shall be held on the second Tuesday in March of each year in which a President is to be elected.”

“Section 3. In order to qualify the name of any person to appear on the ballot at a presidential preference primary, a petition or petitions in support of his candidacy must be filed with the state party chairman of the appropriate political party, hereinafter referred to as “Chairman”, after January 1 of the year in which the presidential preference primary is to be held and before January 15 of that same year. To comply with this section, a candidate may file a petition or petitions signed by a total of not less than 500 qualified electors of the state, or petitions signed by not less than 50 qualified electors of each congressional district of the state, in which case there shall be separate petition for each congressional district. The petitions shall be in such form as the chairman may prescribe; provided, that there shall be a space for the county of residence of each signer next to the space provided for his signature. No signature may be counted as valid unless the county of residence of the signer is provided. Each petition shall contain an affirmation under the penalties of perjury that each signer is a qualified elector in his congressional district or in the state, as appropriate. The decision of the chairman as to the regularity of the petitions shall be final.”

“Section 4. No candidate shall be allowed to have his name placed on the ballot at a presidential preference primary unless there shall be paid to the chairman, at the time of filing his qualifying petition, such fee as the party may prescribe.”

“Section 5. Whenever the chairman shall receive petitions, timely filed, which appear to qualify the name of a candidate for President to be placed on the ballot, he shall forthwith notify the prospective candidate by the most expeditious means of communication and shall advise such prospective candidate that unless he withdraws his name from the ballot within 10 days after receipt of such notice, his name will appear on the ballot of his party at such presidential preference primary. If a candidate signifies his desire to withdraw his name within the above time limit, his name shall not be printed on the ballot.”

“Section 7. Each political party authorized to hold a primary and wishing to hold such a presidential preference primary shall, not less than ninety days before such primary is to be held, adopt and file with the secretary of state a resolution stating said intention, the method by which electors are to indicate one or more preferences, the method by which delegates are to be selected, elected, chosen, and replaced, and the pledge, if any, by which delegates are to be bound.

Section 2. Sections 6, 8, 9, 10, 11, 12, 13, 14, and 15 of Act No. 691, 1978 Regular Session are repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 5:00 P.M.

Act No. 79-548

H. 905—Coburn, Goodwin

AN ACT

Relating to Colbert County; to provide further for the distribution of the payments made in lieu of ad valorem taxes by the Tennessee Valley Authority as authorized by Section 40-28-2, Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. In Colbert County, the payments made to the county commission as authorized in Section 40-28-2, Code of Alabama 1975, shall be distributed by the said county commission

as follows: 40% of such payments shall be disbursed on the same formula as school funds according to the state department of education's "Current Expense Ratio" are apportioned to the four local school systems--the Colbert County Board of Education, the Muscle Shoals City Board of Education, the Tuscumbia Board of Education and the Sheffield Board of Education; 60% of said payments shall be distributed to the county general fund and on a pro rata basis to the general funds of the City of Tuscumbia, the City of Sheffield, the City of Muscle Shoals, the City of Cherokee, the City of Leighton, and the City of Littleville, with each city receiving the amount that its population, according to the latest federal census, bears to the entire population of the county, and the general fund of the Colbert County Commission receiving the amount that the population of the county outside the cities bears to the entire population of the county, according to the latest federal census.

However, the payments which the municipal electric authorities make to the City of Tuscumbia, the City of Sheffield, and the City of Muscle Shoals shall continue to be made to those cities by those authorities just as was the practice prior to October 1, 1979 and such distribution formula provided in this section above shall not be construed to include said municipal electric authority payments to said municipalities but shall only include the amounts that the State of Alabama actually transfers to Colbert County."

Section 2. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 5:00 P.M.

Act No. 79-549

H. 705—Stout, Rains

AN ACT

Relating to DeKalb County; to provide an additional expense allowance for the chairman and members of the county commission.

Be It Enacted by the Legislature of Alabama:

Section 1. The chairman and county commissioners of DeKalb county shall receive an additional expense allowance in the amount of \$50.00 per week. Said expense allowance shall be paid out of the same funds as are other compensation and expense

allowances of the chairman and county commissioners of DeKalb County and the expense allowance provided for by this act shall be in addition to any and all other expense allowances, salary and compensation received by said officers.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 5:00 P.M.

Act No. 79-550

H.J.R. 229—Manley, Clark, Venable,
Biddle, Warren, Pegues,
Shoemaker, Johnson (R.G.),
Cosby, Edwards, Campbell,
Patton

HOUSE JOINT RESOLUTION

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES, THE SENATE CONCURRING:

1. That the level of government rendering the largest number of services and providing the greatest variety of internal improvements in our state is municipal government.

2. That the daily lives of our citizens are more closely affected by the governments of our home towns and home cities than by any other branch of our governmental system.

3. That approximately sixty (60) percent of the residents of this state now reside in urban communities and the growth toward urbanization is continuing at an accelerating pace.

4. That there is a considerable amount of overlapping between the functions and services rendered by the state, the counties and the municipalities which require an in-depth study of municipal government with the view of providing improved services at less cost to the taxpayers and to eliminate, where possible, any expenditure of public funds in (the provision of) duplication of services by more than one branch of our government.

5. That it is important to the citizens of this state, both urban and rural, that there be a sound administration of municipal affairs and that this Legislature study the needs of the municipalities in order to provide them with the legal tools necessary to furnish

reasonable and adequate municipal administration to our citizens.

6. That it has been almost two decades since the Legislature has had an Interim Committee to study municipal government in Alabama and that the time is now appropriate for this Legislature to create an Interim Committee on Municipal Government; and Now, Therefore,

BE IT FURTHER RESOLVED, that in order to suggest to State Legislators sound, workable, financially feasible and economically possible methods of administration for Alabama's municipal governments, there is hereby created an Interim Committee on Municipal Government of the Legislature of Alabama, to be composed of eight (8) members of the Legislature - four (4) from the House, to be appointed by the Speaker of the House, and four (4) from the Senate, to be appointed by the Lieutenant Governor. It shall be the duty and function of the Committee to completely analyze the present status of municipal government in Alabama and to make such recommendations for legislation and constitutional revision which it considers necessary or desirable to enable the municipal governments of this state to better meet and supply the needs and demands of their citizens.

In reviewing the status and laws of municipal governments in Alabama, the Committee shall consider but shall not limit its consideration to the following items:

(1) The functions and responsibilities of municipal governments in providing services and facilities to the residents of the incorporated towns and cities of the state, and whether or not additional legislation is needed or desirable to enable said towns and cities to provide reasonable and adequate standards of municipal services and facilities;

(2) The legal framework of municipal government in Alabama, the power and authority presently enjoyed by municipal governments heretofore granted by the Legislature, and the restrictions placed on municipal governments by the Legislature and whether or not there is need for legislation to broaden the powers and authority of said municipal governments so as to give them more freedom in fulfilling their responsibilities to the urban citizens of the state;

(3) The financial support of municipal government in Alabama and what legislation, if any, is needed to provide more adequate financial resources for support of said municipal governments;

(4) The impact of industrialization and rapid urbanization on

the ability of municipal governments to provide reasonable and adequate standards of services and facilities to urban citizens and what legislation is necessary or desirable to enable such municipal governments to provide a better standard of services and facilities in a period of rapid growth and expansion, including urban rehabilitation, industrial development, transportation, annexation, solid waste disposal, waste water treatment, provision of utility services, municipal personnel administration, personnel training and human resource development, law enforcement, fire protection, street maintenance and construction, traffic control, recreation and the coordination of state and federal urban assistance programs.

BE IT FURTHER RESOLVED, that the Committee shall not consume more than forty-five (45) working days in performing its functions and that its work be finished in time for the preparation of a preliminary report to be submitted during the first month of the 1980 Regular Session of the Legislature of Alabama and a final report to be submitted during the 1980 Regular Session of the Legislature of Alabama and that as far as practicable that all meetings of the Committee be held in the State Capitol and be open to the public. The Secretary of the Senate or Clerk of the House is hereby required to provide one clerk, who shall be a competent stenographer, and the Committee is hereby empowered to employ such other personnel, including reporters and attorneys, as the Committee shall deem necessary. The Committee is hereby empowered and authorized to expend funds for the purpose of correspondence with prospective witnesses, in preparation of reports and in general expenses incident to the work of the Committee. Each member of the committee shall be entitled to his regular legislative compensation, his per diem and travel expenses for each day he attends a meeting of the committee which shall be paid out of the funds appropriated to the use of the legislature, on warrants drawn on the state comptroller upon requisition signed by the committee's chairman, provided, however, that members shall not receive additional legislative compensation or per diem when the legislature is in session. The chairman of the committee shall certify the sums due to the clerk or other employees of the committee. The total amount of funds expended by the committee in carrying out the study shall not exceed the sum of Seven Thousand Dollars (\$7,000.00). The Lieutenant Governor and the Speaker of the House shall jointly designate one of the members of the Committee as Chairman and one member to be Vice-Chairman. The Lieutenant Governor and the Speaker of the House shall be ex officio members of the Committee and shall receive compensation at the rate paid other members for each day that they sit with the

Committee in its work on the subjects and problems listed in this resolution, or in handling any other matters agreed upon by the Committee in line with the general purpose of the Committee.

Approved July 30, 1979

Time: 5:00 P.M.

Act No. 79-551

S.J.R. 133—Callahan, Martin, Glass and
Gulledge

SENATE JOINT RESOLUTION

Resolution naming the new baseball field at the University of South Alabama in honor of Coach Edward Raymond Stanky.

WHEREAS, Coach Stanky has given eleven years service to the University of South Alabama as coach of the Jaguars Baseball Team, and

WHEREAS, Coach Stanky has led the Jaguars to a winning season each of those eleven years, and

WHEREAS, Coach Stanky's record with the Jaguars Baseball Team is a total of 376 wins and only 129 losses, and

WHEREAS, the Jaguars under Coach Stanky have participated in the National Collegiate Athletic Association Play-offs four times, in 1972, 1973, 1975, and 1977, and

WHEREAS, Coach Stanky is also a veteran of eighteen years in professional baseball, as both a player and a manager, and

WHEREAS, Coach Stanky holds several National League records and participated in the 1947 All-Star game, and

WHEREAS, Coach Stanky participated in three World Series, with Brooklyn in 1947, with Boston in 1948, and with New York in 1951,

NOW THEREFORE BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, both Houses concurring in recognition of Coach Stanky's outstanding achievements, service and dedication to the University of South Alabama and to the Jaguars Baseball Team, that the new Baseball field at the University of South Alabama shall hereafter be known as Eddie Stanky Field.

BE IT FURTHER RESOLVED, that a copy of this resolution

be provided to Coach Edward Raymond Stanky.

Approved July 30, 1979

Time: 5:30 P.M.

Act No. 79-552

S. 198—Teague

AN ACT

To amend Section 37-2-81, Code of Alabama 1975, "Duty of locomotive engineer to ring bell or blow horn, etc.," to state and redefine the duties of a locomotive engineer in the operation of a locomotive to accord with and control modern railroad equipment and practices.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 37-2-81, Code of Alabama 1975, is hereby amended to read as follows:

Section 37-2-81. The engineer or other person operating a locomotive on any railroad, must blow the horn or whistle or ring the bell; (a) at least one-fourth of a mile before reaching any public road crossing, or any regular station or stopping place on such railroad and continue with such signal at short intervals, until such crossing, or such station or stopping place has been passed (b) immediately before, and at the time of leaving a station or stopping place; and also immediately before entering any curve crossed by a public road, not marked in accordance with Section 37-2-80, Code of Alabama 1975, where he cannot see at least one-quarter of a mile ahead, and must approach and pass such unmarked crossing at such speed as to prevent an accident in the event of an obstruction at the crossing. He must also blow the horn or whistle or ring the bell at short intervals, on entering into, or while moving within or passing through any village, town or city. (c) at short intervals, on entering into, or while moving within or passing through any village, town or city.

He must also, on perceiving any obstruction on the track, use all means within power, known to skillful engineers, such as applying brakes in order to stop the train.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 5:30 P.M.

Act No. 79-553

S. 237—Higginbotham

AN ACT

To authorize the County Commission or like governing body of each of the several Counties to regulate the minimum size of lots, the planning and construction of all public streets, public roads and drainage structures and require proper placement of public utilities to be located in proposed subdivisions of land or in proposed additions to subdivisions of land existing at the time of the enactment of this Act where such subdivisions are situated outside the corporate limits of any municipality in such county, provided that such placement of public utilities shall not be inconsistent with the Southern Standard Building Code, State and Federal laws and regulations of State and Federal regulatory agencies. To further provide for exercise of jurisdiction by counties over proposed subdivisions within the jurisdiction of municipal planning commissions and to provide for agreement of jurisdiction by counties with affected municipalities.

Be It Enacted by the Legislature of Alabama:

Section 1. The County Commission or like governing body of each county in the State shall be authorized to regulate the minimum size of lots, the planning and construction of all public streets, public roads and drainage structures and require proper placement of public utilities to be located in proposed subdivisions of land or in proposed additions to subdivisions of land existing at the time of the enactment of this Act where such subdivisions are situated outside the corporate limits of any municipality in said county, provided however, that such placement of public utilities shall not be inconsistent with the requirements of the Southern Standard Building Code, State and Federal laws and regulations of State and Federal regulatory agencies, and, provided further, that if the county commission or like governing body of any county shall require the placement of public utility facilities in any such subdivision or addition thereto in such a manner which is other than the most economical method available from an engineering standpoint, then the developer of such subdivision or addition shall reimburse the utility for the difference in cost between the method so required by the county governing body and the most economical method available.

Section 2. It shall be the duty of the owner and developer of each subdivision to have all construction completed in conformity with this Act. The County Commission or like governing body of each county in the State shall be authorized to require the filing and posting of a reasonable surety bond with such county commission by the developers of such proposed subdivisions or proposed additions to guarantee the actual construction and installation of such approved public streets, public roads, drainage structures and public utilities before the sale or offering for sale of any lots from

such subdivision or addition to the public. The County Commission may require the developers of all proposed subdivisions or proposed additions to existing subdivisions of land situated outside the corporate limits of any municipality in such county to submit the plat of such proposed subdivision or addition to the County Commission of said county for approval before such plat is filed for record or received for filing in the Office of the Judge of Probate. No plat shall be approved by the County Commission until each utility affected thereby shall have been notified in writing by the Commission and given at least ten (10) days to review the proposed plat and submit a written report to the Commission as to whether all provisions affecting the service to be provided by such utility are reasonable and adequate.

Section 3. If any such public street, public road, drainage structure or placement of public utilities is subsequently erected, constructed, or placed in violation of the provisions of this Act or any regulations made pursuant thereto the county may institute appropriate action or proceedings to prevent such unlawful erection, construction, or placement or to require such erection, construction, or placement to conform to the regulations prescribed therefor; provided however, nothing herein shall be construed as authorizing such actions or proceedings with respect to such facilities which at the time of their original erection, construction or placement were in violation of this Act or regulations made pursuant thereto.

Section 4. This Act shall not be construed to impair the right of eminent domain granted heretofore or hereafter by the laws of this State to utilities, whether public or private, or their right to exercise authority conferred by statutes, franchises, certificates of convenience and necessity, licenses or easements.

Section 5. No county shall exercise jurisdiction under provisions of this Act within the jurisdiction of any municipal planning commission presently organized and functional or which shall become organized and functional within six months of the date the county assumes such jurisdiction by publishing and adopting notice thereof.

Section 6. It is the intent of the legislature that all proposed subdivisions be subject to regulation, and counties and municipalities affected by provisions of this Act shall have authority to reach and publish agreement as to exercise of jurisdictional authority over proposed subdivisions, which agreement shall be published once a week for two consecutive weeks in a newspaper of general circulation in the county and

affected municipality and such agreement shall thereafter have the force and effect of law.

Section 7. The provisions of this Act are cumulative and shall not repeal any local law or general law of local application granting similar or additional duties and authority to any county commission.

Section 8. The provisions of this Act are severable. If any portion of this Act is declared unconstitutional such declaration shall not affect the parts remaining.

Section 9. This Act shall take effect immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 5:00 P.M.

Act No. 79-554

S. 487—Holmes

AN ACT

Relating to Calhoun County; authorizing the establishment of branch banks within the county.

Be It Enacted by the Legislature of Alabama:

Section 1. Any bank, whether incorporated or unincorporated, within this State, now or hereafter having a combined paid-in capital and paid-in or earned surplus of at least six hundred thousand dollars and situated in Calhoun County shall have power to establish, maintain and operate within the limits of the county, wherein the principal place of business of such bank is situated, one or more branch banks, branch offices, branch agencies, additional officer or branch places of business for the receipt of deposits, payment of checks, lending of money, and/or the conduct of a general banking and trust business, provided that such bank before the establishment of any such branch or branches, first secures the written consent thereto of the State Superintendent of Banks. It is provided further, however, that no bank shall establish, maintain and operate such a branch within any incorporated municipality in the county in which a bank is already established, other than the municipality in which its principal place of business is situated.

Section 2. All laws or parts of laws which conflict with this Act are repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 5:00 P.M.

Act No. 79-555

S. 488—Holmes

AN ACT

To repeal Act No. 183, H. 364, Regular Session 1961 (Acts 1961, p. 225), as amended, entitled, "An Act Authorizing the establishment of branch banks in counties having populations of not less than 95,000 nor more than 115,000."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 183, H. 364, Regular Session 1961 (Acts 1961, p. 225), as amended, entitled, "An Act Authorizing the establishment of branch banks in counties having populations of not less than 95,000 nor more than 115,000," is hereby repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 5:00 P.M.

Act No. 79-556

S. 522—Callahan

AN ACT

Relating to Mobile County; the purpose of this bill is to provide a supplement to the salaries of Register of the Circuit Court and the District Court Clerk of the Thirteenth Judicial Circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. The salaries of each the Register of the Circuit Court and the District Court Clerk of Mobile County, Alabama, of the Thirteenth Judicial Circuit, may be supplemented by the County of Mobile which makes up said Judicial Circuit in an amount up to Six Thousand Dollars per annum. Such supplemental salary shall be paid upon the availability of funds and the approval of the County Commission. Said amount shall be paid in the same manner as is paid other County employees, and shall be paid from the General Fund of the County of said Judicial Circuit.

Section 2. The provisions of this Act should in no way be construed or used to calculate or increase the compensation cited by Section 4 (a), Act No. 291, Acts of Alabama, Regular Session 1967.

Section 3. The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 5. This Act shall become effective from and after its passage and approval by the Governor or its otherwise becoming a law.

Approved July 30, 1979

Time: 5:30 P.M.

Act No. 79-557

S. 539—McDonald

AN ACT

Relating to Limestone County; to provide further for the compensation of the members of the county board of equalization by authorizing the Limestone County commission to provide certain county salary supplements for such members.

Be It Enacted by the Legislature of Alabama:

Section 1. The county commission of Limestone County is hereby authorized to provide county salary supplements for the members of the Limestone County board of equalization in any amount so long as such supplement shall not make the total compensation of such members any more than forty dollars (\$40.00) per day plus expenses. Such supplement shall be paid in the usual manner from funds available in the county treasury.

Section 2. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 5:30 P.M.

Act No. 79-558

S. 569—Kirkland

AN ACT

Relating to Monroe County; providing for an increase in the compensation of the members of the board of equalization, and further providing for an additional travel allowance for the board.

Be It Enacted by the Legislature of Alabama:

Section 1. The chairman and each member of the board of equalization of Monroe County shall be entitled to an additional \$15.00 per day for each day's service as provided by law. Said compensation shall be payable from any funds of the county general fund not previously appropriated.

Section 2. The board of equalization is further entitled to receive an additional travel allowance of up to \$250.00 per year. Said allowance shall be paid periodically during the year as the Monroe County Commission shall designate.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 5:30 P.M.

Act No. 79-559

S. 579—Harrison

AN ACT

Relating to Montgomery County; providing that in addition to all presently existing pistol permit fees, there is hereby levied an additional pistol permit issuance fee in the amount of \$5.00; providing that \$3.00 of said additional fee be paid into the county treasury for the establishment and maintenance of a fund which is hereby designated and entitled as the "Sheriff's Fund"; providing for the use of said "Sheriff's Fund"; providing that \$1.00 of the additional fee collected shall be credited to the County's portion of contribution for all county employees, under any retirement plan in effect in said county; the remaining \$1.00 of the additional fee collected shall be credited to the general fund of the county.

Be It Enacted by the Legislature of Alabama:

Section 1. The Sheriff of Montgomery County shall collect an additional fee of \$5.00 for each pistol permit issued by him. The said

fee shall be in addition to any other fees required by law to be charged for the issuance of a pistol permit. The sheriff shall pay all such fees to the county treasurer or other custodian of county funds, who shall disburse the said additional fee as hereinafter prescribed in Sections 2 and 3.

Section 2. (a) The treasurer or other custodian of county funds shall pay \$3.00 of said additional fee into a fund known as the "Sheriff's Fund" hereinafter established in Section 3 of this Act.

(b) The treasurer or other custodian of county funds shall pay \$1.00 of said additional fee to be credited to the county portion of contribution for all county employees under any retirement plan in effect in Montgomery County.

(c) The treasurer or other custodian of county funds shall pay \$1.00 of said additional fee into the general fund of Montgomery County.

Section 3. (a) A fund which shall be known as the "Sheriff's Fund" is hereby established, to be expended by the sheriff in law enforcement work as provided in subsection (b) of this section.

(b) The sheriff or his appointed agent is hereby authorized and empowered to make requisition to the county treasurer or other custodian of county funds on said "Sheriff's Fund" for the payment of any and all expenses for the good and improvement of law enforcement and in the proper discharge and the conduct of the duties of the sheriff's office in Montgomery. The county treasurer or other custodian of county funds shall immediately pay out such funds upon requisition by the sheriff or his appointed agent, and the approval of the county commission.

(c) The establishment of the Sheriff's Fund as provided in this Act, and the use of such funds, shall in no way diminish or take the place of any other imbursement or source of income established for the sheriff in the operation of his office.

Section 4. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. The provisions of this Act are cumulative and shall not be construed to repeal or supersede any laws or parts of laws not directly inconsistent herewith.

Section 6. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 5:00 P.M.

Act No. 79-560 S.J.R. 140—Cook, Bailey, Barron, Britnell,
 Callahan, Clemon, deGraffenried,
 Denton, Figures, Glass, Goodwin,
 Gullledge, Hall, Harrison,
 Higginbotham, Holmes, Keener,
 Kirkland, Lemaster, Little,
 McDonald, Martin, Miller,
 Mitchem, Parsons, Pearson,
 Proctor, Robertson, Smith,
 St. John, Taylor, Teague, Vacca,
 Weeks and White

SENATE JOINT RESOLUTION

COMMENDING BRIGADIER LUTHER M. SMITH AND
 HIS WIFE, MRS. BRIGADIER JEWELL SMITH, OF THE
 SALVATION ARMY IN BIRMINGHAM, FOR THEIR
 DISTINGUISHED HUMANITARIAN SERVICE.

WHEREAS, Brigadier Luther M. Smith and his wife, Mrs.
 Brigadier Jewell Smith, of the Birmingham Salvation Army, have
 a combined service time of 90 years in this most respected
 humanitarian service organization; and

WHEREAS, Brigadier Luther Smith serves on the Board of
 Trustees of the Cooper Green Hospital, was the first Chairman of
 the Mayor's Police Community Committee, and serves on the Board
 of St. Anne's, an alcohol problem commission for women; and

WHEREAS, he has also been involved in numerous disaster
 relief programs in Guatemala and Honduras, and is leaving soon
 for Costa Rica to assist some of the fleeing refugees from
 neighboring Nicaragua; and

WHEREAS, he has opened a lodge for runaway girls, of which
 he is in charge as head of the Salvation Army in Birmingham; and

WHEREAS, Mrs. Brigadier Jewell Smith has had an equally
 distinguished career of service, being in charge of the Salvation
 Army Women's Auxiliary of 750 women in the Birmingham area;
 and

WHEREAS, she is on the National Committee of the Business
 and Professional Women's Club, and works closely with the League

of Mercy, an organization which provides gifts to nursing homes, prisons, and other needy and forgotten people; and

WHEREAS, she has worked closely with her husband in every aspect of Salvation Army work, particularly in the disaster relief programs; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do heartily commend Brigadier Luther M. Smith and his wife, Mrs. Brigadier Jewell Smith, on their splendid careers together with the Salvation Army; the whole state, and the Birmingham community in particular, are deeply in their debt; their lives exemplify the highest meaning of Christian service.

BE IT FURTHER RESOLVED, That copies of this resolution be sent to them that our respect and admiration for them may be shown.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-561

S.J.R. 143—Barron

SENATE JOINT RESOLUTION

WHEREAS, the Alabama State Legislature is saddened to learn of the death of its former member Frank Lloyd Haynes on July 14, 1979; and

WHEREAS, No servant gave more of himself for his family, his community, his state and nation as did Frank Haynes; and

WHEREAS, Frank Haynes distinguished himself as a graduate of Howard College, as a school teacher, coach and principal, as a member of the State of Alabama House of Representatives for three terms and as an official of the State Department of Conservation; and

WHEREAS, Frank Haynes was a very kind, generous and considerate gentleman whose number of friends are legion and his influence will live on forever in the lives of those fortunate enough to have been influenced by him; and

WHEREAS, Frank Haynes' life-long faith in God provided not only a remarkable career in many fields but gave him the success of having all the desirable qualities of warmth, humor and humility

which earned for him the undying love and friendship of all who knew him.

NOW THEREOF BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, that their members do hereby mourn the death of Frank L. Haynes and extend to his surviving wife, Maxine Haynes and other surviving family members their sincerest sympathy and to whom copies of this resolution shall be sent.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-562

S.J.R. 144—deGraffenried

SENATE JOINT RESOLUTION

MOURNING THE DEATH OF MR. WARD W. McFARLAND, PROMINENT LAND DEVELOPER AND FORMER DIRECTOR OF THE ALABAMA STATE HIGHWAY DEPARTMENT AND OF THE ALABAMA STATE DOCKS.

WHEREAS, the Legislature of Alabama expresses deep regret, grievously mourning the death of Mr. Ward W. McFarland of Tuscaloosa, Alabama, on June 1, 1979, at the age of 64; and

WHEREAS, a native of Tuscaloosa and a member of the First United Methodist Church, Ward McFarland was a graduate of Tuscaloosa High School, the University of Alabama and of the University's School of Law in 1937; he taught Economics at the University of Alabama from 1935 to 1937, practiced Law from 1937 until 1942, then served as Captain, United States Air Force, during World War II and until his discharge in 1946; and

WHEREAS, appointed by former Governor James E. Folsom, Mr. McFarland served from 1947 until 1951 as the Director of the Alabama State Highway Department, to later serve under Governor Folsom, in 1955-57, as Director of the State Docks; and

WHEREAS, as chairman of the Industrial Development Committee of the Tuscaloosa Chamber of Commerce, he was named Outstanding Member in 1965, primarily for bringing Butte Knit and Olympia Mills to Tuscaloosa and the West Alabama area; and

WHEREAS, Mr. McFarland was active in the development of numerous malls and shopping centers, as well as apartments, subdivisions and other businesses in Tuscaloosa and Northport, and

also had interests in subdivisions and commercial properties elsewhere in Alabama and in Georgia, Louisiana and Florida; and

WHEREAS, as one of our state's most outstanding and contributing citizens, Ward McFarland's death has left an irreplaceable void in the hearts and lives of all our citizens; he was an extraordinary leader in civic and community affairs as well as in the business and political areas of the entire State of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the death of Ward W. McFarland and extend our heartfelt sympathy to his wife, Mrs. Frances McFarland, and to their sons, Ward and Bill, to whom copies of this resolution shall be sent as an expression of our deep regret and sadness in their great loss.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-563 S.J.R. 145—deGraffenried, Robertson and Cook

SENATE JOINT RESOLUTION

COMMENDING DR. WILLIAM ROBERT WILLARD
UPON HIS RETIREMENT.

WHEREAS, having learned of the announced retirement of Dr. William R. Willard after seven years of service to the University of Alabama and more than forty years of service in the fields of medicine and health sciences, the Alabama Legislature is pleased to recognize his many outstanding accomplishments in these vital areas; and

WHEREAS, Dr. Willard received his Bachelor of Science degree, his Doctor of Medicine degree and a Doctoral of Public Health degree from Yale University and further was awarded an Honorary Doctor of Science degree by Transylvania University; he also was certified by the American Board of Preventive Medicine and Public Health; and

WHEREAS, during military service, from 1944 to 1946, his major assignment was with the United States Army Military Government in Korea as Acting Director, Department of Public Health and Welfare; and

WHEREAS, Dr. Willard's prestigious career positions include capable service as Dean of Medicine at three institutions; Upstate Medical Center, the University of Kentucky and the University of Alabama's College of Community Health Sciences as Professor and founding Dean since 1972; and

WHEREAS, under Dr. Willard's leadership, the College of Community Health Sciences has grown to 73 full and part-time faculty and the department has completed a five million dollar capital construction program; he further has provided direction for the development of joint programs between the College of Community Health Sciences and other components of the University emphasizing allied health; and

WHEREAS, Dr. Willard has been recognized nationally for his extraordinary contributions in the development of medical education and is the recipient of the Abraham Flexner Award of the Association of American Medical Colleges, the Distinguished Service Award of the American Board of Family Practice and the Distinguished Service Award of the American Medical Association; he also is affiliated with numerous professional and civic organizations and societies, has served in consultant capacity for Medical School Development and/or Medical Education with a number of universities nationwide, and has authored some forty-two publications; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly commend Dr. William Robert Willard on his distinguished career and express our deep appreciation for his outstanding service to the University of Alabama's College of Community Health Sciences.

BE IT FURTHER RESOLVED, That Dr. Willard receive a copy of this resolution as evidence of our esteem and that he may know of our warm wishes for every continued success.

Approved July 30, 1979

Time: 6:00 P.M.

SENATE JOINT RESOLUTION

MOURNING THE DEATH OF MR. LEONARD PRESTON
HOUSTON OF COOSADA, ELMORE COUNTY, ALABAMA.

WHEREAS, it is with regret and a sense of deep sorrow that the Legislature of Alabama notes the death of Leonard Preston Houston of Coosada, Alabama, on June 26, 1979, at the age of 62; and

WHEREAS, Mr. Houston was a resident of Coosada and of Elmore County for some 48 years; he was an outstanding and contributing citizen of his community and, as a prominent farm leader and cattleman, was honored in 1977 by the 4-H Clubs of Elmore County for his work and leadership in their programs and, just shortly prior to his death, was named Father of the Year by the Elmore County CowBelles Association; and

WHEREAS, Mr. Houston served twelve years as a director of the Elmore County Cattlemen's Association and two years as that organization's president; he further was a longtime member of the Elmore County Farm Bureau, which he served both as director and as president, and also was a member of the Millbrook Men's Club and of the Methodist Church; and

WHEREAS, an influential leader in civic and religious affairs, Mr. Houston was a man of great ability and of good deeds who devoted a lifetime of service to the betterment and well-being of Elmore County and all its citizens; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the death of Mr. Leonard Preston Houston of Coosada, Elmore County, Alabama, and express our most heartfelt sympathy to the members of his family.

BE IT FURTHER RESOLVED, That copies of this resolution be sent to his wife, Mrs. Mathilda Rives Houston; to their sons, Frank, Robert and John Houston, and to his mother, Mrs. Aimee Dunn Houston, that they may know of our shared sorrow and of our concern for them in their time of great loss.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-565

S. 200—Little

AN ACT

Relating to Tallapoosa County; providing for an additional fee for a pistol permit license in the county; providing for the disposition of the proceeds from such fees;

repealing conflicting laws and specifically repealing Act No. 642, H. 1522, Regular Session 1975 (Acts 1975, p. 1398); and providing for its retroactive effect.

Be It Enacted by the Legislature of Alabama:

Section 1. In Tallapoosa County in addition to any fee or fees provided for by law there shall be an additional issuance fee for a pistol permit or license as provided for in Section 13-6-155 Code of Alabama 1975, in the amount of five dollars.

Section 2. One dollar of each fee collected under Section 1 of this Act shall be paid into the county general fund and the remaining four dollars of each fee shall be deposited by the sheriff of the county in any bank located in the county, into a fund known as the sheriff's law enforcement fund. Such fund shall be drawn upon by the sheriff or his duly authorized agent and shall be used exclusively for law enforcement purposes.

Section 3. The establishment of the sheriff's law enforcement fund as provided in this Act and the use of such fund shall in no way diminish or take the place of any other imbursement or other source of income established for the sheriff or the operation of his office.

Section 4. All laws or parts of laws which conflict with this Act are hereby repealed and Act No. 642, H. 1522, Regular Session 1975 (Acts 1975, p. 1398) is hereby specifically repealed.

Section 5. This act shall have retroactive effect to October 2, 1975.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-566

S. 229—McDonald

AN ACT

To provide that all justices of the supreme court, judges of the courts of appeal, and circuit judges assuming office for the first time on or after effective date of this act, shall be entitled to benefits under the judicial retirement fund; to prescribe certain exceptions, including: (a) Such justices or judges shall not receive retirement pay until age sixty; (b) retirement pay shall be computed upon a percentage of final salary at the time of retirement; (c) any cost-of-living increase shall be limited to the times such increments are granted to state employees; (d) only prior creditable service as a judge shall count toward judicial retirement; to provide that certain prior service as a district court judge may be counted toward retirement as a circuit or appellate judge; to repeal conflicting laws.

Be It Enacted by the Legislature of Alabama:

Section 1. On or after effective date of this act, any person assuming office for the first time as a justice of the supreme court, judge of a court of appeals, or a circuit judge, shall receive and be

entitled to all retirement benefits prescribed in Title 12, Chapter 18, Articles 1 and 2, Code of Alabama 1975, except as follows:

(a) The provisions of Sections 12-18-6 (a) (3) and (5) and 12-18-6 (b) (3) and (5) of the Code of Alabama 1975, to the contrary notwithstanding, except for disability, no such justice or judge shall be eligible to receive judicial service retirement pay prior to attaining sixty years of age.

(b) The retirement pay or benefit of each such justice or judge shall be based and computed pursuant to the provisions of Section 12-18-10, Code of Alabama 1975, at the percentage rate therein prescribed of his final salary received from the state at the time of retirement. Retired justices and judges coming under this Act shall be entitled to receive cost-of-living increases in their retirement pay equal to any cost-of-living increment received by retired state employees from the state employees retirement system, as provided by the legislature from time to time.

(c) The provisions of Section 12-18-8, Code of Alabama 1975, to the contrary notwithstanding, no credit for prior creditable service shall be claimed by such justice or judge for inclusion toward judicial retirement except prior creditable service as a judge.

(d) In order for any person, electing to retire under the provisions of this act, to receive benefits authorized for the judicial office in which he is serving at the time of his retirement, he must have served not less than one (1) full term, or a time equal to a full term, in such office; if such person has served for a lesser period in such office, he shall only be entitled to retire in, and receive the benefits for, any previous judicial office in which he shall have served for not less than one (1) full term, or a time equal to a full term, such person otherwise having attained the number of years of creditable service and age for such retirement, including all service in the office held at the time of retirement.

Section 2. Any person with service as a judge of a district court who assumes the office of circuit judge or as a justice of the supreme court or judge of a court of appeals shall be entitled to receive creditable service for such time served as judge of a district or county court for inclusion toward retirement under Title 12, Chapter 18, Articles 1 and 2, Code of Alabama 1975.

Section 3. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with the

provisions of this Act are hereby repealed and, specifically, only to the extent that the provisions of Title 12, Chapter 18, Articles 1 and 2 of the Code of Alabama 1975, conflict with the provisions of this Act, they are hereby repealed.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law, except as otherwise herein provided.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-567

S. 342—Little

AN ACT

To provide for certain one time expense allowances for the tax assessor and tax collector of Tallapoosa County to defray the expenses of converting their offices from a fee basis to a salary basis system of compensation.

Be It Enacted by the Legislature of Alabama:

Section 1. In order to defray the expenses of converting the offices of tax assessor and tax collector of Tallapoosa County from a fee basis to a salary basis system of compensation, the county commission of said county is hereby authorized to provide one time expense allowances for such offices in amounts as follows:

Tax Assessor	\$9,000
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Tax Collector	\$6,000
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Such allowances shall be paid on or before July 1, 1979 with lump sum warrants drawn on the county treasury. A detailed accounting of all transition expenditures made from the funds herein provided shall be filed by said officers with the county commission on or before September 30, 1979 and any unused portion of such funds shall be returned therewith to the county general fund.

Section 2. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-568

H.J.R. 298—McKee

HOUSE JOINT RESOLUTION

URGING ALL STATE EMPLOYEES TO COMPLY WITH PRESIDENT CARTER'S PLEA FOR FUEL CONSERVATION BY CARPOOLING WHENEVER POSSIBLE.

WHEREAS, on July 15, 1979, President Carter called upon all Americans to join together in patriotism and unity to help solve the energy problems which beset our nation; and

WHEREAS, as some 55% of our oil consumption is for transportation, with the vast majority of that used for private passenger automobiles, conservation in this single area offers the most immediate and a dramatic means of saving fuel; and

WHEREAS, government entities, by virtue of size, are America's largest groups of employees and it is the consensus of this body that concerted efforts by this segment would result in saving literally hundreds of thousands of barrels of oil per day; and

WHEREAS, it is a great source of pride that Alabama and all its citizens have historically rallied in sacrifice for the good of our country in times of national emergencies and we are confident that in this time of crisis, Alabama will once again do whatever necessary to help meet and solve our problems; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we urge all state employees to comply with President Carter's plea for fuel conservation by carpooling whenever possible; we further urge all department heads and their assistants, by way of leadership and example, to take the first step in this direction by setting up and joining carpools with neighbors who also work in the vicinity of the capital complex.

BE IT FURTHER RESOLVED, That copies of this resolution be sent to Governor Fob James and to all state department heads that they may meet with and urge their employees to join carpools

and take any other necessary steps to help combat unnecessary consumption of fuel and the resultant energy shortage facing our nation today.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-569

H.J.R. 299—Dixon

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF FRANK LLOYD HAYNES.

WHEREAS, The Alabama State Legislature is saddened to learn of the death of its former member Frank Lloyd Haynes on July 14, 1979; and

WHEREAS, No servant gave more of himself for his family, his community, his state and nation as did Frank Haynes; and

WHEREAS, Frank Haynes distinguished himself as a graduate of Howard College, as a school teacher, coach and principal, as a member of the State of Alabama House of Representatives for three terms and as an official of the State Department of Conservation; and

WHEREAS, Frank Haynes was a very kind, generous and considerate gentleman who number of friends are legion and his influence will live on forever in the lives of those fortunate enough to have been influenced by him; and

WHEREAS, Frank Haynes' life-long faith in God provided not only a remarkable career in many fields but gave him the success of having all the desirable qualities of warmth, humor and humility which earned for him the undying love and friendship of all who knew him.

NOW THEREFORE BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,

that their members do hereby mourn the death of Frank L. Haynes and extend to his surviving wife, Maxine Haynes and other surviving family members their sincerest sympathy and to whom copies of this resolution shall be sent.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-570

H. 318—Sasser

AN ACT

Relating to Henry County, Alabama; providing for the appointment and compensation of a clerk for the Tax Collector and a clerk for the Tax Assessor of Henry County.

Be It Enacted by the Legislature of Alabama:

Section 1. The County Commission of Henry County is authorized to pay out of the General fund of said County the salaries of clerks for the Tax Collector and clerks for the Tax Assessor. Such clerks shall be appointed by the Tax Collector and Tax Assessor, respectively. The Tax Assessor shall fix his (or her) clerks' salaries and the Tax Collector shall fix his (or her) clerks' salaries; however, the total amount to be paid to the clerks in each office shall be fixed at not more than \$9,000.00 per annum, total, and shall be paid as requested by the Tax Assessor and Tax Collector to such clerks.

Section 2. All laws or parts of laws which conflict with this act are repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-571

H. 686—Sasser, Grimsley

AN ACT

To amend further Section 11-6-2 of the Code of Alabama 1975, as amended, so as to provide further for the qualifications of the county engineer in certain counties of this state.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 11-6-2 of the Code of Alabama 1975, as amended, is hereby amended to read as follows:

“§ 11-6-2.

“The person appointed as county engineer, or chief engineer of the division of public roads within the meaning of this article, shall be a registered professional engineer and land surveyor in the state of Alabama in good standing and, in addition, he shall have had not less than three years experience in the maintenance and

construction of highways and bridges; except, that in all counties having populations of not less than 300,000 nor more than 600,000 inhabitants according to the most recent or any subsequent federal decennial census and in Cleburne, Crenshaw, Chilton, Fayette, Winston, Lamar, Cullman, Perry, Bullock, Macon, Montgomery, Clay, Walker, Coffee, Choctaw, Blount, Houston, Pike, Russell, Henry and Chambers counties, the county engineer need not be qualified as a land surveyor in order for the state highway department to participate in the payment of a portion of said county engineer's salary as provided in section 11-6-4; provided, that the exemption for Montgomery County shall expire on May 1, 1979."

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-572

H. 893—Waggoner

AN ACT

Relating to Jefferson County; to fix and prescribe the salary of the tax collector of said county.

Be It Enacted by the Legislature of Alabama:

Section 1. The tax collector of Jefferson County shall be paid from the general fund of said county the sum of \$32,000.00 per year, to be paid in equal monthly installments, beginning with the next term for which a tax collector shall be elected for said county.

Section 2. The above salary shall not be deemed to include any additional compensation which may be provided by Act No. 705, enacted at the 1965 Regular Session (Acts 1965, p. 1306), for the performance of the functions and duties therein provided.

Section 3. All laws and parts of laws in conflict with this act are hereby repealed to the extent of such conflict. This act shall not, however, be deemed to repeal Act No. 705, 1965 Regular Session (Acts 1965, p. 1306).

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-573

H. 716—Whatley, Ward, Turnham

AN ACT

To provide an annual supplemental salary for the Judge of the District Court of Lee County, Alabama.

Be It Enacted by the Legislature of Alabama:

Section 1. Immediately upon the effective date of this Act, as hereinafter provided, the Judge of the District Court for Lee County, Alabama, shall receive an annual supplemental salary payable in equal monthly installments from the general fund of Lee County, in an amount of ten thousand and no/100ths (\$10,000.00) dollars.

Section 2. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 3. This Act shall become effective on the first day of October, after its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-574

H. 995—Cooley, Bowling

AN ACT

Relating to Cullman County; to establish a county personnel board; to provide for the appointment, and compensation of the members; and to provide for the powers, duties and authority of the personnel board in the personnel administration of the county.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby created the Cullman County Personnel Board, which shall be composed of three members appointed by members of the legislative delegation representing Cullman County. One member shall be appointed for a term of two years, one for a term of four years, and one for a term of six years. Their successors shall be appointed to terms of six years. All appointees shall be residents and qualified electors of Cullman County and not less than twenty-five years of age.

Members of the board shall take the constitutional oath of

office, which shall be filed in the Office of the Probate Judge. Vacancies on the board shall be filled in the same manner as original appointments. The members of the board shall elect a chairman and secretary annually from among their number. Any member of the board who becomes a candidate for, or is elected or appointed to another public office vacates his office as a member of the board.

Section 2. In addition to the duties set forth elsewhere in this Act, the board shall: (a) advise the governing body on matters of personnel administration, including the development of personnel rules, a job classification plan, and a systematic pay plan; (b) represent the public interest in the improvement of personnel administration in the county service; (c) make any inquiry which it may consider desirable concerning personnel administration in the county service; and (d) make recommendations to the governing body with respect to any of the foregoing duties. So long as the same are not inconsistent with this Act, the board shall have the power to recommend to the governing body the adoption of the rules and regulations for the operation of the civil service system established hereby, including, but not limited to a job classification plan, a pay plan, and a plan for the mandatory and/or permissive retirement of employees. Within sixty (60) days after the presentation of a recommendation of the board, the governing body shall act upon the same; the recommendation of the board as passed by the County Commission shall then become operative and have the force and effect of law. All rules, regulations and pay and classification plans in effect at the time of the adoption of this Act which are not in conflict with the provisions hereof shall remain in force and effect after the effective date of this Act until the same are altered, amended, or repealed in the manner hereinafter provided. Upon a finding by the County Commission that the financial condition of the County requires, rules shall be adopted in the manner herein provided prescribing hours of work and the conditions and length of time for which leaves of absence with pay and leaves of absence without pay may be granted. These shall cover such matters as vacations, holidays, sick leaves, leaves for military service, and leaves granted so that the employee can seek election to public office. Employees shall continue their retirement benefits under the State Retirement System of the State of Alabama.

Section 3. Any rule, determination, regulation or plan may be amended or repealed in whole or in part by the Cullman County Commission or by Act of the Legislature of the State of Alabama.

Section 4. The board shall maintain adequate records of its proceedings, and of its own official acts.

Section 5. Each member of the board shall be paid, from the county treasury, twenty dollars per meeting of the board, plus such mileage as is provided by law to the county governing body. The governing body shall make necessary appropriations from the general fund to pay the reasonable and necessary expenses incurred by the board and its members in the administration of this Act.

Section 6. Any employee may be dismissed, suspended without pay or demoted by the County Commission for, but not limited to, any violation of the provisions of this Act or whenever the good of the service will be served thereby or the employee's work, performance, conduct on or off the job, or insubordinate attitude so warrants; provided, however, that no employee may be suspended without pay for more than fifteen (15) working days at any one time or for more than thirty (30) working days in any one year; and provided further, that no employee shall be dismissed, suspended without pay or demoted for political considerations other than those enumerated in Section 15 hereof. Any person appointed to a position who has secured his certification therefor through fraud shall be removed by the County Commission and shall not thereafter be eligible for examination for or appointment to any position except by unanimous permission of the board. Elected officials of the County may carry out the provisions of this section as the same relates to employees in their respective offices. The Cullman County Commission may authorize any department head or other supervisory employee to carry out the provisions of this section, provided, however that any action to terminate or suspend without pay shall only be with the prior written approval of the Cullman County Commission. The fact and extent of any other disciplinary action taken by such department head or other supervisory employee shall promptly be reported to the Cullman County Commission and a record of the same shall be kept by the Commission.

Section 7. An employee shall have the right to protest any disciplinary action taken against him. Provided, however, an employee having probationary status shall have no right to protest any such disciplinary action, unless such employee had permanent status in some other position at the time he was appointed to his present position. An employee desiring to protest any disciplinary action directed against him shall file a protest in writing with the board and with the County Commission within seven (7) days of the date on which the disciplinary action was taken and request a hearing before the board. Within seven (7) days after the receipt of the protest, the County Commission shall file with the chairman of the board and mail to the employee by certified mail a statement

specifying the charges against such employee on which the disciplinary action was based. Upon the filing of such charges, the said chairman shall call a meeting of the board to be held within thirty (30) days after the filing of such charges to hear such protest, and shall forthwith give notice by certified mail to the employee and the County Commission of the time and place of such meeting. The board shall have the authority to continue the hearing from time to time as may be necessary. In preparing for and conducting such hearing, the chairman and secretary-treasurer of the board shall each have the power to administer oaths, and to subpoena and require the attendance of witnesses and the production of books, documents, and accounts pertaining to the subject under investigation.

Subpoenas issued as herein provided shall be served (and the fees and allowances for the service thereof shall be the same) as is provided by law for the service of subpoena issued by the Circuit Court of Cullman County, Alabama. Said fees and allowances in connection with the service of such subpoena issued at the request of the County Commission or the board shall constitute reasonable and necessary expenses of the board. Such subpoena issued at the request of the employee shall be served as aforesaid but only after such employee has deposited sufficient security with such sheriff or other officer as will guarantee payment of such fees and allowances for such service. In the event any person is duly summoned to appear and testify or produce evidence, or both, before the board, and such person refuses to attend or testify or produce such evidence, or any of them, in obedience to such summons, the board shall have the right to involve the aid of the Circuit Court at law. In such event, and upon proper showing by the board to the court, the court shall issue, or cause to be issued, an order or subpoena requiring such person to appear before the board and produce all evidence and give all testimony relating to the issue within his knowledge. Any person failing to obey such summons by either of said officers of the board without good cause, to be determined by the court, may be punished by the court in the same method as is provided by law for contempt of the court and any person failing to obey any such order or subpoena of the court, may be proceeded against by the court as is by law as provided in the case of contempt of such court. In addition, any employee of the County who fails to obey any of such orders or subpoenas may be disciplined as provided in Section 6.

At the hearing the employee and his appointing authority shall each have the right to be represented by counsel. Such hearing shall be governed by rules of practice and procedure adopted by the board, and in conducting such hearing, the board shall not be bound

by the technical rules of evidence. No informality of procedure in the conduct of such hearing shall invalidate any decision made by the board. At the conclusion of the hearing, the board shall render a decision (a) affirming the disciplinary action taken if it is reasonably satisfied from the evidence offered at the hearing that the disciplinary action taken was lawful or was not too severe; or (b) reversing the action taken if it is reasonably satisfied from such evidence that the disciplinary action taken was not lawful; or (c) modifying the disciplinary action taken and prescribing the proper penalty if it is reasonably satisfied from such evidence that the employee was subject to some disciplinary action, but that the penalty imposed was too severe. If the board's decision reduces the severity of the disciplinary action taken against the employee, the board, in its decision, may provide that the employee shall be reinstated with or without pay provided, however, in the event any employee is so ordered to be reinstated with pay, such pay shall not exceed the amount that the employee as such earned during the thirty (30) days next preceding the taking of the disciplinary action in question. A copy of the board's decision shall be filed with the County Commission and such decision shall become effective immediately upon such filing, and it shall become final ten (10) days thereafter unless reversed or modified as hereinafter provided. The Personnel Board shall be represented by the County Attorney, or any attorney designated by the governing body of the county, and said attorney shall perform such duties as the board may direct and require.

Section 8. Decisions of the board may be enforced by the Court by mandamus, injunction, or other appropriate proceedings. The employee or the County Commission may, within ten (10) days after the decision of the board is rendered, appeal to said court from any decisions of the board, affirming, imposing, or refusing to affirm or impose dismissal or demotion as disciplinary action by filing notice of such appeal with the Court and causing a copy of such notice to be served on the County Commission and any member of the board. Upon the filing of such notice, the board shall file with the court a summary of its decision in the matter. The appeal shall be heard at the earliest possible date by said Court sitting without a jury on the issues made before the board and the trial in said Court shall be de novo. No bond shall be required for such an appeal and the cost of such appeal shall be taxed against the unsuccessful party or as the judge may direct. At the conclusion of such hearing the Court may affirm, reverse, or modify the board's decision, or remand the case for further proceedings before the board as the Court in its discretion shall deem best. If the order of the Court is that the employee shall be reinstated with pay, such pay shall not

exceed the amount that the employee as such earned during the thirty (30) days next preceding the taking of the disciplinary action in question. An appeal may be taken from any judgment of said Court to the Court of Appeals or Supreme Court as provided by law.

Section 9. All offices and employees of the County shall be divided into the exempt service and the classified service.

1. The exempt service shall include: (a) the positions of all elected officials of the County, (b) the positions of voluntary personnel and personnel appointed to serve without pay; (c) the positions of consultants rendering temporary professional service; (d) all positions involving seasonal or part-time employment; (e) such positions as the board shall determine to involve unskilled or semi-skilled work; (f) positions of departmental supervisors; (g) the positions of attorneys rendering legal services; (h) the Chief Deputy Sheriff, Lieutenants and Sergeants in the Sheriff's Office, the Chief Clerk of the Probate Judge, the Chief Clerk of the Revenue Commissioner, and the Chief Clerk of the County Commission, provided however that any such person as enumerated in this subsection (h) who has previously attained permanent status in the service of the County shall be entitled to be retained in their previous permanent status position upon removal from such exempt position, provided such removal was for any reason other than for cause as provided herein.

2. **Classified Service:**

The classified service shall include all positions in the County service that are paid out of the general fund of the County and which are not in the exempt service. Unless otherwise specifically provided or clearly implied, the provisions of this Act shall apply only to the classified service.

Section 10. Except as otherwise provided herein to acquire permanent status in a position in the classified service so long as such position remains in the classified service, employees shall be subject to a period of probation. The regular period of probation shall be six (6) months; provided, however, the board or County Commission may adopt rules and regulations specifying a longer period of probation for a designated class or classes, or for extension of the probation period for any individual probationary employee, but no probationary period may extend beyond twelve (12) months. The work and conduct of employees with a probationary status shall be subject to close scrutiny and evaluation. An employee retained beyond the end of the probationary period shall have permanent status in the position in which he was so retained so long as that position remains in the classified service. Any employee on

probation may be discharged or otherwise disciplined with or without cause and shall have those rights and benefits as herein set out only after acquiring permanent status.

Section 11. In the event the Cullman County Commission becomes responsible for the construction and maintenance of the roads of Cullman County then in such event any employee which has previously acquired permanent status with the State Personnel System with the State Highway Department and which employee transfers to the employ of the Cullman County Commission shall be on probationary status with the Cullman County Commission and may be discharged with or without cause for a period of six (6) months and shall not have the rights of a permanent status employee hereunder during said six (6) months period; provided however that any such employee may within six (6) months of such transfer to the employ of the Cullman County Commission transfer back to the employ of the State Highway Department without loss of pay status or any other benefit or right as such employee previously had as such state employee.

Section 12. Any employee may be separated from his position by being laid-off. Reduction in the number of employees shall be made in such class or classes as the County Commission may designate; provided, however, within each class affected by such reduction employees shall be laid off in the following order: (1) probationary employees who did not have permanent status in some other position in the classified service at the time they were appointed to their present position; (2) other probationary employees; and (3) employees having permanent status in the position in the classified service.

Section 13. The County Commission may keep a register of all persons eligible and available for appointment to each class and position in the service of the county, ranked according to ability; provided, however, that no examination need be given and no register kept for positions designated by the commission as common laborers. Persons seeking employment in any position may be required to file applications with the commission, and the commission may, from time to time, conduct examinations to test the ability of such applicants. In the event examinations are required all qualified applicants shall be examined, and such examinations shall be public, competitive, and may be subject to limitations specified by the commission as to age, residence, health, height, weight, moral character, and other factors pertinent to ability to discharge the duties of the position, provided further, that only United States citizens may apply for any such position. Examinations shall be practical in character and shall relate to

those matters which test the ability of the person examined to discharge intelligently the duties of the position for which he applies. Provided, however, that any vacancy in the office of any elected official may be filled by the respective elected officials of the County provided such employee is duly and properly qualified for such appointment.

Section 14. The following words, terms, and phrases, wherever used herein shall have the meanings respectively ascribed to them in this section, and shall include the singular as well as the plural:

BOARD means the Personnel Board of Cullman County.

COUNTY means Cullman County.

COUNTY COMMISSION means the Cullman County Commission.

COURT means the Circuit Court of Cullman County, Alabama.

DEMOTION means removal of an employee from a position in one class to a position in another class having a lower maximum salary limit than the position from which he was removed.

LAID-OFF means separated from the classified service of the County because of lack of work or funds or other reason not related to fault or misconduct on the part of the employee.

PROMOTION means a change of employment from a position of one class to a position of another class which has a higher maximum salary rate.

Section 15. No employee shall make, solicit or receive any assessment, donation, subscription or contribution for any political purpose whatsoever, except to exercise his right as a citizen to express his opinion and cast his vote; no employee shall assist any candidate for nomination or election to public office; or make any public statement in support of or against any such candidate, or participate in any manner whatever in the campaign of any candidate in any general or primary election; and no employee shall receive any appointment or advancement as a reward for his support of a candidate for office or a political party; nor shall he be dismissed, suspended, or reduced in rank or pay as punishment for his failure to support any candidate for political office.

The provisions of this section notwithstanding, nothing herein shall prohibit an employee from being a member, officer, or beat committeeman, or committeewoman of a political party, neither shall this act interfere with any duty such employee might have as

such member, officer, beat committeeman or committeewoman.

Section 16. The provisions of this Act notwithstanding, the Sheriff of Cullman County shall be authorized to set employment policies for the Sheriff's Department of Cullman County and subject to the provisions of Section 7 and Section 8 of this Act, to promote and demote personnel within the Sheriff's Department without consulting the Cullman County Commission or Personnel Board. The Sheriff of Cullman County shall be authorized to hire law enforcement personnel for the Sheriff's Department of Cullman County provided such personnel meet the requirements of the Alabama Minimum Standards Act. Applications for employment with the Sheriff's Department shall be submitted to the Sheriff's Department. The Cullman County Commission and Personnel Board shall not be authorized to set policies on employment practices within the Sheriff's Department. All law enforcement personnel with the Sheriff's Department shall be considered skilled employees and their salaries set in accord with such skilled status. Provided, however, that nothing in this section shall be construed to limit, abridge, or interfere with any right or protection provided any employee under this Act.

Section 17. Nothing herein shall be construed as restricting the right of the Cullman County Commission: (1) to increase or decrease proportionately the compensation of all employees; (2) to use independent contractors for performance of work or the rendering of service by the county.

Section 18. All expenses incurred in the implementation of the provisions of this Act shall be paid by the County.

Section 19. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 20. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 21. This Act shall become effective immediately upon its approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

HOUSE JOINT RESOLUTION

CREATING THE JOINT INTERIM COMMITTEE TO STUDY THE EFFECTS OF RADIATION AND OTHER AREAS OF NUCLEAR ENERGY ACTIVITIES ON THE STATE OF ALABAMA.

WHEREAS, much has been discussed regarding radioactive materials and other matters that pertain to the Nuclear Energy Field in the State of Alabama; and

WHEREAS, the House Committee on Health, through its sub-committee on nuclear energy, has gone into this matter in depth but not in detail; and

WHEREAS, there is a need in the State of Alabama for this matter to be studied with attention focused on the results affecting the people regarding fall-out and other matters incidental to radiation; and

WHEREAS, Congress has recently authorized such a Committee by the General Accounting Office; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby created a Joint Committee from both houses of the Legislature to study the effects of nuclear energy, radioactive substance and other matters pertaining to nuclear energy in the State of Alabama.

BE IT FURTHER RESOLVED, That said Joint Committee is to be composed of nine (9) members composed of the Chairman of the House Health Committee and Chairman of the Senate Health Committee and four (4) members of the House Health Committee appointed by the Chairman and three (3) members from the Senate Health Committee to be appointed by the Chairman of the Health Committee in the Senate. This Committee shall meet within ten (10) days after final adjournment of the 1979 Regular Session of the Legislature for the purpose of organization. The responsibilities of the members should be discussed and determined at the organizational session. The Committee shall make its final report to the Legislature no later than the fifth legislative day of the 1980 Regular Session at which time the Committee shall be terminated.

The Clerk of the House and the Secretary of the Senate are directed to furnish secretarial help for the Committee and the Committee shall receive its regular mileage and per diem. There is appropriated from the funds appropriated for the use of the Legislature the amount of seven thousand dollars (\$7,000.00) for the expense of this Committee.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-576

H.J.R. 306—Johnson (Roy)

HOUSE JOINT RESOLUTION

COMMENDING THE UNIVERSITY OF ALABAMA CHAPTER OF PHI DELTA KAPPA ON ITS FIFTIETH ANNIVERSARY AND DESIGNATING APRIL 25, 1980, AS PHI DELTA KAPPA DAY.

WHEREAS, on April 25, 1980, the University of Alabama Chapter of Phi Delta Kappa Fraternity will celebrate its fiftieth anniversary of service in promoting quality education, with particular emphasis on publicly supported education, as essential to the development and maintenance of a democratic way of life; and

WHEREAS, Phi Delta Kappa is an international professional fraternity for men and women in education with its membership composed of recognized leaders in the profession and those graduate students in education whose leadership potential has been identified; members include classroom teachers, school administrators, college and university professors, and educational specialists of many types; and

WHEREAS, the theme for this momentous occasion is "Looking at Education from a New Perspective," which is in keeping with the organization's unceasing and continuing efforts to meet the needs of those served through their promotion of quality education; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly commend and congratulate the University of Alabama Chapter of Phi Delta Kappa on its first prestigious fifty years and, in honor of the occasion, do hereby designate April 25, 1980, as "Phi Delta Kappa Day" at the University.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to Ms. Sallie Cook, president, on behalf of the fraternity's entire membership, and as a token of the esteem in which we hold in this fine organization.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-577

H. 52—Pegues

AN ACT

To bring the laws of Alabama in conformity with P.L. 93-641 and Federal regulations by amending Section 22-21-260 relating to definitions, Section 22-21-265 relating to certificate of need required for new institutional health services, Section 22-21-274 relating to the review procedures, and Section 22-21-275 relating to application review for certificates of need. To repeal Section 22-21-262 which exempts certain acquisitions from certificate of need and Section 22-21-273 relating to the Health Facilities Review Council.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 22-21-260 of Code of Alabama, 1975, is hereby amended so as to read as follows:

“Section 22-21-260. Definitions. As used in this article, the following words and terms, and the plurals thereof, shall have the meanings ascribed to them in this section, unless otherwise required by their respective context:

(1) **STATE BOARD OF HEALTH.** The statutory agency of the state of Alabama operative in the field of general health matters and performing the duties and exercising the powers as set forth in the statutory provisions relating thereto. In addition to its other duties and responsibilities in the field of general health matters, the state board of health, or other agency selected by the Governor is the “state health planning and development agency” pursuant to chapter 4 of this title. Where used in this article, the terms “state board of health,” “state agency” and “state health planning and development agency” shall be synonymous and may be used interchangeably.

(2) **STATEWIDE HEALTH COORDINATING COUNCIL.** A council established pursuant to the provisions of Title XV, section 1524, of the Public Health Service Act (42 USC 300m-3) and sections 22-4-7 and 22-4-8 of this Code to advise the state health planning and development agency on matters relating to health planning and resource development and to perform such other functions as may be delegated to it by appropriate state and federal statutes.

(3) **HEALTH SYSTEMS AGENCY.** An entity which is organized and operated under the provisions of Title XV of the Public Health Service Act (42 USC 3001 et seq.) and is responsible for the health planning and development in a health service area

designated by the governor.

(4) **HEALTH SERVICE AREA.** A geographical area designated by the governor, pursuant to Title XV of the Public Health Service Act, as being appropriate for effective planning and development of health services.

(5) **STATE HEALTH PLAN.** A comprehensive plan which is prepared, reviewed and revised at least annually by the statewide health coordinating council, with the assistance of the state health planning and development agency, and approved by the state board of health and the statewide health coordinating council. The state health plan shall include:

- a. The health systems plans developed by the health systems agencies and revised as necessary for appropriate coordination, or to deal more effectively with statewide health needs and priorities;
- b. The state medical facilities plan; and
- c. The state manpower plan.

The state health plan shall provide for the development of health programs and resources to assure that quality health services will be available and accessible in a manner which assures continuity of care, at reasonable costs, for all residents of the state.

(6) **STATE MEDICAL FACILITIES PLAN.** A plan prepared by the state health planning and development agency and approved by the statewide health coordinating council as consistent with the state health plan, which shall include consideration of the medical facilities plans of the health systems agencies and which shall establish an integrated and interrelated system of health care facilities which shall promote the provision of readily accessible health care facilities in all parts of the state.

(7) **HEALTH CARE FACILITY.** Such term shall include: General and specialized hospitals, including tuberculosis, psychiatric, long-term care and other types of hospitals, and related facilities such as laboratories, outpatient clinics and central service facilities operated in connection with hospitals; skilled nursing facilities; intermediate care facilities; rehabilitation centers; public health centers; facilities for surgical treatment of patients not requiring hospitalization; kidney disease treatment centers, including free-standing hemodialysis units; community mental health centers and related facilities; facilities for the developmentally disabled; home health agencies; and health maintenance organizations. The term "health care facility" shall not include the offices of private physicians or dentists, whether for

individual or group practice and regardless of ownership, or Christian Science sanatoriums operated or listed and certified by the First Church of Christ, Scientist, Boston, Massachusetts.

(8) **HEALTH SERVICES.** Clinically related (i.e., diagnostic, curative or rehabilitative) services, including alcohol, drug abuse and mental health services customarily furnished on either an inpatient or outpatient basis by health care facilities, but not including the lawful practice of any profession or vocation conducted independently of a health care facility and in accordance with applicable licensing laws of this state.

(9) **CAPITAL EXPENDITURE.** An expenditure, including a force account expenditure (i.e., an expenditure for a construction project undertaken by the facility as its own contractor), which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance and which

a. Exceeds \$100,000.00; or

b. Changes the bed capacity of the facility with respect to which such expenditure is made, or

c. Substantially changes the health services of the facility with respect to which such expenditure is made.

(10) **PERSON.** Any person, firm, partnership, association, joint venture or corporation, the state of Alabama and its political subdivisions or parts thereof and any agencies or instrumentalities and any combination of persons herein specified, but "person" shall not include the United States or any agency or instrumentality thereof, except in the case of voluntary submission to the regulations established by this article.

(11) **APPLICANT.** Any person, as defined in this section, who files an application for a certificate of need.

(12) **ACQUISITION.** Such term shall mean and include obtaining the legal equitable title to a freehold or leasehold estate or otherwise obtaining the substantial benefit of such titles or estates, whether by purchase, lease, loan or sufferance, gift, devise, legacy, settlement of a trust or means whatever, and shall include any act of acquisition. The term "acquisition" shall not mean or include any conveyance, or creation of any lien or security interest by mortgage, deed of trust, security agreement or similar financing instrument, nor shall it mean or include any transfer of title or rights as a result of the foreclosure, or conveyance or transfer in lieu of the foreclosure, of any such mortgage, deed of trust, security agreement or similar financing instrument.

(13) **CONSTRUCTION.** Such term shall mean and include actual commencement, with bona fide intention of completing the same, or completion of the construction, erection, remodeling, relocation, excavation or fabrication of any real property constituting a facility under this article, and the term "construct" shall mean and include any act of construction. "Ground breaking ceremony," "receipt of bids," "receipt of quotation" or similar action that will permit unilateral termination without penalty shall not be considered "construction."

(14) **FIRM COMMITMENT OR OBLIGATION.** Such terms shall mean and include:

a. Any executed, enforceable, unconditional written agreement or contract not subject to unilateral cancellation for the acquisition or construction of a health care facility or purchase of equipment therefor;

b. Actual construction of facilities peculiarly adapted to the furnishing of one or more particular services and with the bona fide intention of furnishing such service or services; and

c. any executed, unconditional written agreement not subject to unilateral cancellation for the bona fide purpose of furnishing one or more services.

(15) **INSTITUTIONAL HEALTH SERVICES.** Health services provided in or through health care facilities or health maintenance organizations, including the entities in or through which such services are provided.

(16) **MODERNIZATION.** The alteration, repair, remodeling, replacement and renovation of existing buildings (including initial equipment thereof and the replacement of equipment of existing buildings.)

(17) **TO OFFER.** Such term, when used in connection with health services, means that the health care facility or health maintenance organization holds itself out as capable of providing, or as having the means for the provision of, specified health services."

Section 2. Section 22-21-265 of Code of Alabama, 1975, is hereby amended to read as follows:

"Section 22-21-265. Certificates of need - Required for new institutional health service.

(a) On or after the effective date of this act, no person to which this article applies shall acquire, construct or operate a new

institutional health service, as defined in this article, or furnish or offer, or purport to furnish a new institutional health service, as defined in this article, or make an arrangement or commitment for financing the offering of a new institutional health service, unless such person shall first obtain from the state board of health a certificate of need therefor.

(b) Notwithstanding the provisions of subsection (a) of this section, any person who, on the effective date of this act, holds a valid assurance of need issued pursuant to section 1122 of the Social Security Act, shall be entitled to be issued a certificate of need for the facility or service described on the application for the assurance of need. Application for a certificate of need under this subsection shall be filed within 90 days after the effective date of this act. Certificates of need issued under this subsection shall be subject to section 22-21-270.

Section 3. Section 22-21-274 of Code of Alabama, 1975, is hereby amended so as to read as follows:

“Section 22-21-274. Adoption and public notice of review procedures and criteria. The state board of health, with the advice and consultation of the statewide health coordinating council, and after considering the recommendations of the health systems agencies, shall prescribe by rules and regulations the review criteria and review procedures required by this article. Said review criteria and review procedures shall be consistent with the provisions of this article and with appropriate federal regulations adopted under the authority of PL 93-641. Prior to the adoption of rules and regulations, the state board of health shall give wide publicity to the proposed rules and regulations and shall conduct a public hearing following legal notice of not less than 30 days. The public hearing shall be held in the city of Montgomery, Alabama. Prior to advertising the public hearing, the state board of health shall submit the proposed rules and regulations to the health systems agencies, the statewide health coordinating council and other interested agencies. Future revisions of the rules and regulations shall be made as required in this section for the original rules and regulations.”

Section 4. Section 22-21-275 of Code of Alabama, 1975, is hereby amended to read as follows:

“Section 22-21-275. Procedures for review of applications for certificates of need. The state board of health, pursuant to the provisions of section 22-21-274, shall prescribe by rules and regulations the procedures for review of applications for certificates of need and for issuance of certificates of need. Rules

and regulations governing review procedures shall include, but not necessarily be limited to, the following:

(1) Agreement with the health systems agencies and other review agencies for review procedures consistent with this article and federal regulations.

(2) Application procedures and forms of the application necessary to elicit and provide all necessary information as required by the review criteria.

(3) Establishment of a project review period of 90 days from the date the state agency determines that the application is complete and notification thereof is made to the applicant. The rules and regulations may provide for a period of not more than 15 days for determination of the completeness of the application, notification of the beginning and termination dates of the project review period and criteria for determining by the state agency of an extension of the project review period not to exceed 30 days with or without the consent of the applicant. An extension of the review period without limitation may be made with the written consent of the applicant. All reviews must be completed prior to the termination of the review period. If the state agency does not make a decision within the period of time specified for state agency review, the proposal shall be deemed to have been found not to be needed.

(4) Provision for a "nonsubstantive" review which shall be a modified review applicable to proposals for capital expenditures up to \$500,000,00 and which:

- a. Do not result in a substantial change in a service; or
- b. Propose equipment to up-grade or expand an existing service; or
- c. Increase the bed capacity by not more than 10 percent of the existing bed capacity; provided, that such increase in bed capacity is consistent with the state medical facilities plan.

(5) Public notification of receipt of applications, review periods, public hearings, meetings of the state committee of public health, acting as the state board of health, decisions of the state agency, fair hearings if requested and final decisions regarding a certificate of need.

(6) Public hearings on the application for the certificate of need. The state board of health and the health systems agency shall make provisions for a public hearing in the course of agency review if requested by one or more persons directly affected by the review.

These hearings may be held by the health systems agency on behalf of itself and the state board of health under agreement between the two agencies. However, such joint public hearings shall not deprive the applicant of his right to a hearing before the state committee of public health.

(7) Schedule for reviews to include hearings before the review agencies, beginning and ending of review periods and time of the review period as provided in this section.

(8) Provision of the applicant to submit such information that he may deem advisable in justification of the application over and above the minimum information required by this article and the regulations adopted hereunder.

(9) Provisions for periodic reports by the health provider or applicant respecting the development of the proposed subject to review and for which a certificate of need is issued.

(10) Provisions for written findings, as appropriate, which the state used as the basis for its decision or any recommendation of the state agency. Such findings and recommendations shall be available to the applicant and to other interested persons upon request and upon payment of a reasonable fee to cover actual costs of reproduction and handling.

(11) Notification upon request of providers of health services and other persons subject to review of findings, recommendations and decisions made under this article.

(12) Provision for a public hearing upon written request and for good cause by any person for the reconsideration of a decision by the state board of health. Request for a public hearing shall be made in writing not more than 30 days subsequent to the date of the decision and shall have the effect of holding in abeyance the final decision subject to the outcome of the public hearing.

(13) Provision that no decision of the state board of health under this article shall be deemed final until 31 days following the date of the decision.

(14) Provision that any adverse decision of the state board of health or any decision of the state board of health that is inconsistent with the recommendations of the health systems agency may be appealed to an agency of the state (other than the state board of health) designated by the governor. The appeal proceedings shall be conducted pursuant to the requirements of the state of Alabama, regulations adopted under this article and federal regulations. Request for a fair hearing by the health

systems agency or the applicant shall be made within 30 days of the decision by the state agency and shall have the effect of holding in abeyance the decision subject to the outcome of the fair hearing. The decision of the appeals agency shall be considered the final decision of the state agency; provided, that the applicant or the health systems agency may appeal the decision to the circuit court of the county in which the applicant resides or of the county in which the applicant is situated.

(15) Preparation and publication, at least annually, of reports by the state agency to the review being conducted, decision reached, certificates issued and status of proposals.

(16) Access by the general public to applications reviewed by the state board of health and to other written material pertinent to the review.

(17) Provisions for letters of intent in the case of construction projects by persons proposing such projects. Letters of intent shall be in such detail as the state board of health may direct by regulations. Letters of intent shall not substitute for the formal application for a certificate of need as provided in this article.

(18) Provision that the review procedure may vary according to the purpose for which a particular review is being conducted and/or the nature and type of service or expenditure proposed."

Section 5. Sections 22-21-262 and 22-21-273 of the Code of Alabama, 1975, as amended, are hereby specifically repealed and all laws or parts of laws in direct conflict herewith are repealed.

Section 6. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 5:00 P.M.

Act No. 79-578

S. 638—Little

AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the municipality of Alexander City, in Tallapoosa County.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the municipality of Alexander City, in Tallapoosa County, are hereby

altered, rearranged and extended so as to include within the corporate limits of said municipality, in addition to the lands now included, all of the following territory, to-wit:

Begin at the West corporate limits between Section 6 and 7, thence West along said section line to the east bank of Harrell Creek; thence south along the east bank of said Harrell Creek to the point of intersection of Harrell Creek and Elkahatchee Creek; thence along the meanderings of the north bank of Elkahatchee Creek to intersect the south boundary of Section 8; thence along Section 8 to the north bank of Elkahatchee Creek; thence along the north bank of Elkahatchee Creek to intersect with 490-foot contour of Lake Martin; thence along the 490-foot contour on the north bank of Lake Martin to intersect with the south boundary of Section 15; thence East along said southern boundary of Section 15 to intersect with the 490-foot contour of Lake Martin; thence East along said 490-foot contour of the north bank of Lake Martin to intersect with the west boundary of Dean Branch; thence northeasterly along the west boundary of Dean Branch to intersect with the section line between Sections 13 and 14; thence north along said section line to the existing corporate limit. The above property includes parts of Sections 7, 17, 18, 21, 22, 23 and 14 lying north of Elkahatchee Creek and the 490-foot contour of Lake Martin and all of Sections 8, 9, 10, 15 and 16 lying south of the corporate limits. All of the above described property being in Township 22 North, Range 21 East, in Tallapoosa County, Alabama.

Section 2. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-579

H.795—Reed (T)

AN ACT

Relating to Macon County; to amend further Act No. 102, H. 237, Regular Session 1935 (Local Acts 1935, p. 38), which relates to the selection of the superintendent of education and prescribes his duties, qualifications, compensation and term of office, so as to provide further for his compensation, and to give this act retroactive effect.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 4 of Act No. 102, H. 237, Regular Session 1935 (Local Acts 1935, p. 38), which relates to the selection of the superintendent of education of Macon County and prescribes his duties, qualifications, compensation and term of office, is hereby further amended to read as follows:

“Section 4. Such county superintendent of education shall devote his entire time to the public schools of Macon County and shall receive \$25,000 annually. He shall be paid at the time and in the manner provided by the general laws of the state for the payment of the salaries of county superintendents of education.”

Section 2. The operation of this act shall be retroactive to September 30, 1978, and all actions taken and payments made pursuant thereto on and after that date are ratified and confirmed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-580

H. 988—Venable

AN ACT

To amend further Section 1 of Act No. 47, H. 100, Special Session 1962 (Acts 1962, p. 63), as amended, fixing the compensation of certain county officers of Elmore County so as to further provide for the compensation and expense allowances of certain county officers.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 47, H. 100, Special Session 1962 (Acts 1962, p. 63), as amended, is further amended to read as follows:

“Section 1. The following officers in Elmore County shall receive the following annual salaries payable in equal monthly installments from the general fund of the county:

Probate Judge	An annual salary of \$22,500.00
Tax Assessor	An annual salary of \$18,500.00
Tax Collector	An annual salary of \$18,500.00
County Commission Member (Not including the Chairman)	An annual salary of \$10,800.00

"Each member of the county commission shall, in addition to other expenses provided by law, receive an expense allowance of \$.15 per mile for the use of their private motor vehicles in the discharge of their duties as members of the county commission."

Section 2. This act shall become effective October 1, 1979.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-581

H. 1021—Greer, Coburn

AN ACT

Relating to Lauderdale County; to provide a procedure for handling cases involving invalid personal checks given for licenses, and the voiding of such licenses.

Be It Enacted by the Legislature of Alabama:

Section 1. The provisions of this Act shall apply to Lauderdale County.

Section 2. In cases where a personal check given for a license is found to be noncollectible for any reason, the county license commissioner will make a reasonable attempt to retrieve the license in question. In the event that the license cannot be retrieved, the license commissioner will so state and such statement shall constitute authorization to void any license in question. Once such license has been voided, the license commissioner will receive credit for the cost of the license plus the issuance fee. The appropriate state office will mark the records pertaining to the void license and, upon inquiry by law enforcement agencies, will notify said agencies that the party in question is operating under a void license. All violations will be prosecuted in accordance with current law.

Section 3. The provisions of this Act are supplemental. It shall be construed in *pari materia* with other laws relating to such matters; however, those laws or parts of laws which are in direct conflict or inconsistent herewith are hereby repealed.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-582

H. 1022—Greer, Coburn

AN ACT

Relating to Lauderdale County; providing additional compensation for members of the jury commission, payable out of the county treasury.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to all compensation heretofore provided by law, each member of the jury commission of Lauderdale County, including the clerk of such commission, shall be paid five dollars (\$5) per day for the time actually engaged in the discharge of his duties as such member, to be paid out of the county treasury, upon the warrant of the probate judge of the county. Such warrants shall be issued by such probate judge upon evidence satisfactory to him that such service has been rendered, but the total compensation of each member, from the state and county, shall not exceed \$1500 for any one year of his term.

Section 2. The provisions of this Act are cumulative and shall not be construed to repeal or supersede any laws not directly inconsistent herewith.

Section 3. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. The provisions of this Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-583

H. 1023—Greer, Coburn

AN ACT

To repeal Act No. 507, H. 1180, approved August 24, 1976, Regular Session 1976 (Acts 1976, p. 633), entitled, "An Act Relating to all counties having a population of not less than 65,500 nor more than 75,200 according to the 1970 or any subsequent federal decennial census; providing for an additional tax on certain misdemeanor and felony guilty arrests made by the sheriff or sheriff deputies; providing for the collecting of such tax and earmarking the same for the sheriff's department."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 507, H. 1180, approved August 24, 1976, Regular Session 1976 (Acts 1976, p. 633), entitled, "An Act Relating to all counties having a population of not less than 65,500 nor more than 75,200 according to the 1970 or any subsequent federal

decennial census; providing for an additional tax on certain misdemeanor and felony guilty arrests made by the sheriff or sheriff deputies; providing for the collecting of such tax and earmarking the same for the sheriff's department," is hereby expressly repealed.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-584

H. 1024—Greer, Coburn

AN ACT

To repeal Act No. 506, H. 1183, approved August 24, 1976, Regular Session 1976 (Acts 1976, p. 633), entitled, "An Act Relating to counties having populations of not less than 65,500 nor more than 75,200 according to the 1970 or any subsequent federal decennial census; providing an additional mileage allowance for the sheriff and his deputies."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 506, H. 1183, approved August 24, 1976, Regular Session 1976 (Acts 1976, p. 633), entitled, "An Act Relating to counties having populations of not less than 65,500 nor more than 75,200 according to the 1970 or any subsequent federal decennial census; providing an additional mileage allowance for the sheriff and his deputies," is hereby expressly repealed.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-585

H. 1036—Daniels

AN ACT

To further authorize the Geneva County Commission to provide for an increase to the clerk-hire allowance for the Tax Assessor and the Tax Collector.

Be It Enacted by the Legislature of Alabama:

Section 1. The Geneva County Commission is hereby authorized to provide for the Tax Assessor and the Tax Collector of Geneva County a clerk-hire allowance not to exceed \$6,000.00 per annum. Such allowance shall be paid when authorized by the Geneva County Commission from the county treasury in equal bi-monthly installments on vouchers signed by the officers entitled to the allowance. Such allowance shall be in lieu of all other allowances heretofore provided for such officers.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-586

H. 1037—Daniels

AN ACT

To amend Act No. 542, H. 1106 of the 1976 Regular Session (1976 Acts, p. 726) entitled "An Act Relating to Geneva County; providing the county governing body may supplement the salary of the circuit judge from the county general fund, up to six thousand dollars (\$6,000) per annum, so long as such judge is a resident of Geneva County," so as to delete the requirement that the judge be a resident of Geneva County.

Be It Enacted by the Legislature of Alabama:

Section 1. The title and section 1 of Act No. 542, H. 1106 of the 1976 Regular Session (1976 Acts, p. 726) is hereby amended to read as follows: "An Act Relating to Geneva County; providing the county governing body may supplement the salary of the circuit judge from the county general fund, up to six thousand dollars (\$6,000) per annum."

"Be It Enacted by the Legislature of Alabama:

"Section 1. The county governing body of Geneva County is hereby authorized to supplement the salary of the circuit judge, from the county general fund, in an amount not to exceed six thousand dollars (\$6,000) per annum."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-587

H. 1043—Holley, Ray

AN ACT

To make appropriation from the general fund of Coffee County for the relief of the tax assessor of said county for services rendered and costs incurred in the performance of his duties; and to give the county commission discretionary power to expend said funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated from the general fund of Coffee County the sum of \$40,000.00 to the tax assessor of said county for his monetary relief for services rendered and costs incurred in the performance of his duties. The county commission is authorized and empowered to expend, by resolution, all or any part of the money herein appropriated for the purpose set out above as the circumstances and dictates of equity and justice indicate.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-588

H. 1046—Reed

AN ACT

Relating to Bullock County; providing further for the advertisement of notice of intention to apply for passage of local laws.

Be It Enacted by the Legislature of Alabama:

Section 1. No person or persons shall advertise notice of intention to apply for passage of local legislation affecting Bullock County in the legislature of Alabama unless such person or persons shall be identified by name and address and shall clearly state whether such person or persons are members of the legislature or are not members of the legislature.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration

shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-589

H. 1047—Reed

AN ACT

Relating to Bullock County; providing an expense allowance for the coroner.

Be It Enacted by the Legislature of Alabama:

Section 1. The coroner of Bullock County shall receive an expense allowance of \$300.00 per month and \$7.50 per case payable out of the county general fund. Said expense allowance shall be in lieu of any prior expense allowance received by said coroner and shall be in addition to all other compensation presently received.

Section 2. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-590

H. 945—Johnson (R.G.), Shoemaker,
Dial, Moore

AN ACT

Applying only to Talladega County; regulating and indentifying certain mobile homes; providing for the use of decals for such purpose; and providing fees and penalties.

Be It Enacted by the Legislature of Alabama:

Section 1. Every person, firm, or corporation who owns,

maintains, or keeps a mobile home which is considered for ad valorem tax purposes a part of the realty on which it is located shall receive a colored decal upon the payment of the ad valorem tax on said mobile home. Said decals shall be designed by the state department of revenue and displayed on the mobile home for which the ad valorem taxes were paid, on or near the front entrance of such mobile home in such manner that it shall be readily accessible to the view of the county license inspector.

Section 2. It is the intention of this Act to include within its provisions every mobile home situated upon leased real property, or situated upon real property the ownership of which is different from or the same as the ownership of such mobile home, regardless of whether such mobile home has been affixed to such real property as a matter of law.

Section 3. The owner of any mobile home who willfully fails or refuses to display the identification decal on such mobile home, as required in Section 1 of this Act, shall be guilty of a misdemeanor and upon conviction shall be fined not less than one hundred dollars nor more than five hundred dollars.

Section 4. In addition to all applicable criminal sanctions, a license inspector's fee in the penal sum of ten dollars shall be assessed against any person, firm or corporation who fails to assess such mobile home for ad valorem tax purposes at the proper time or who fails to display such identification decal as required by Section 1 of this Act.

Section 5. If the county license inspector serves a citation, by mail or otherwise, on any person, firm or corporation for delinquency in assessing such mobile home for ad valorem tax purposes, or for failing to post such identification decal, a citation fee of five dollars shall be assessed against such person, firm or corporation.

Section 6. All sums collected as penalty fees or citation fees shall be paid into the county general fund for the use of the county.

Section 7. The state department of revenue is hereby empowered to regulate and carry out all rules and regulations necessary to implement the provisions of this Act.

Section 8. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 9. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 10. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-591

H. 946—Dial, Shoemaker, Moore,
Johnson (R.G.)

AN ACT

Applying only to Talladega County; providing for additional fees on certain business and store licenses required for places of business within the county; and providing for penalties for failure to pay such fees.

Be It Enacted by the Legislature of Alabama:

Section 1. This Act shall apply to Talladega County only.

Section 2. It is the finding of the Legislature that the fees herein provided for are necessary for the proper and orderly collection of state, county, and municipal license taxes within Talladega County, including but not limited to licenses and fees levied under Section 40-12-2 and Section 40-12-315, Code of Alabama 1975.

Section 3. In addition to any license tax or fee levied by the provisions of Section 40-12-2(e), Code of Alabama 1975, for the use and benefit of counties, there is hereby levied a county license inspector's fee upon any person, firm or corporation required to obtain a license in Talladega County under Title 40, Chapter 12, Article 2, Code of Alabama 1975, and upon any person, firm or corporation required to obtain a license under Title 40, Chapter 12, Article 6, Code of Alabama 1975, to open, establish, operate or maintain one or more stores or mercantile establishments within Talladega County.

Section 4. The county license inspector's fee levied herein shall be ten dollars for each place of business within Talladega County for which one or more licenses under Title 40, Chapter 12, Article 2 or Article 6 must be procured.

Section 5. The county license inspector's fee levied herein shall be paid to the Probate Judge of Talladega County at the time any such license is procured from him, and such license shall evidence the payment of such fee.

In the event that a license tax or fee under Section 40-12-315, Code of Alabama 1975, for any person, firm or corporation to open, establish, operate or maintain one or more stores or mercantile establishments within Talladega County, is not payable to the Probate Judge of Talladega County, such county license inspector's fee shall nevertheless be paid to the Probate Judge of Talladega County within the time allowed by law for the payment of such tax or fee under said Section 40-12-315, Code of Alabama 1975.

Section 6. Any person, firm or corporation which fails or refuses to pay the county license inspector's fee levied herein shall be assessed a citation fee of twenty-five dollars if the delinquent has been cited.

Section 7. Any person, firm, copartnership or association who shall willfully fail or refuse to pay the county license inspector's fee levied by this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$100.00, nor more than \$500.00. Each and every day such violation shall continue shall constitute a separate and distinct offense.

Section 8. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications under this Act, which shall be given effect without the invalid provisions and applications, and to this end the provisions of this Act are declared to be severable.

Section 9. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-592

H. 948—Shoemaker, Moore, Dial,
Johnson (R.G.)

AN ACT

To authorize and provide for the establishment, maintenance, operation and financing of a Public Law Library in Talladega County; to authorize the governing body of said County to expend public funds under its control therefor; to provide for the taxing and collection of additional court costs in certain Courts in said County for such purpose and for the expenditure thereof; to designate the officers to accomplish said purpose and to define the powers and duties of such officers with respect thereto, and to designate personnel to operate said Library, or to assist therein, and provide for employment of additional personnel for said purpose, and the payment of

salaries of such personnel; and to provide additional funds for the support of law enforcement in Talladega County.

Be It Enacted by the Legislature of Alabama:

Section 1. The governing body of Talladega County is hereby fully authorized to establish and maintain a Public Law Library in said County, and, to accomplish said purpose, may, from time to time, expend such public funds of said County, as are not required by law to be expended for any other purpose or purposes, to provide suitable housing quarters, furniture, fixtures and equipment therefor, to keep the same in a good state of maintenance and repair, and, from time to time, to enlarge, expand and improve such Library, facilities and equipment, and from time to time, to provide such books, reports and periodicals for said Library as are not provided therefor out of the proceeds of the special fund created by this Act or otherwise, and to pay the salaries of a Librarian and such other personnel as may be necessary and proper to operate the same, to the extent that such salaries are not paid out of the proceeds of such special fund; which expenditure shall, from time to time, be made on warrants drawn in the usual manner, upon the County Treasurer, payable out of appropriate fund or funds.

Section 2. In order to provide a special fund for the maintenance of said Library, there shall be taxed as costs the sum of Three Dollars (\$3.00) in each Civil or Quasi Civil Action at Law, Suit in Equity, Criminal Case, Quasi Criminal Case, proceeding on a Forfeited Bail Bond or proceeding on a Forfeited Bond given in connection with an appeal from a judgment of conviction in any inferior or municipal court to the Circuit Court hereinafter filed in, arising in, or brought by appeal, certiorari or otherwise to the Circuit Court of Talladega County, Alabama, which costs shall be collected as other costs in such cases are collected by the Clerk of said Court or the Register in Chancery thereof, as the case may be, and shall be paid to the Treasurer of Talladega County.

Section 3. There shall also be taxed as costs in cases hereafter filed in the District Court of Talladega County the sum of One Dollar (\$1.00) in each criminal case and in each civil case in which the amount in controversy does not exceed \$100.00, and the sum of \$3.00 in each civil case in which the amount in controversy exceeds \$100.00, which costs shall be collected as other costs in such cases are collected, and when collected by the Clerk or other collecting officer of said court shall be paid by him to the Treasurer of Talladega County, Alabama.

Section 4. The sums herein provided in Section 2 and Section 3 hereof to be paid to the Treasurer of Talladega County shall be

kept by him in a separate fund designated as "Talladega County Law Library Fund" and shall be expended by the presiding Judge of the Circuit Court of Talladega County, Alabama, for maintaining said Law Library. Said presiding Judge shall draw warrants on the Treasurer for expenditures by him indicating on the warrants the fund against which the warrants are drawn. Said fund shall be used primarily to lease or purchase, from time to time, under conditional sales contracts in anticipation of future revenue under this Act, or otherwise, as the said Judge may deem expedient, such books and periodicals, and to pay the salaries of such personnel, as may in the opinion of the said presiding Judge be advisable, but to the extent not so used such funds may be otherwise expended for the maintenance of said Library. The management of the said Law Library is vested in said presiding Judge and all books or other property purchased with the funds produced by this Act shall be the property of Talladega County; provided, however, that the said Judge may from time to time, sell at public or private sale or exchange any such books, reports, periodicals, and personal property, and apply the proceeds from the sale thereof; or the value thereof, upon the purchase of other books, reports, periodicals and personal property for use in said Library, and said Judge may accept any gift or loan of any books, reports, periodicals and personal property for use in said Library, and said Judge may accept any gift or loan of any books, reports, periodicals and property for public use in said Library upon such terms and conditions as may be stipulated by the donor or lender thereof and as may be agreeable to the said Judge. Said presiding Judge may appoint such personnel as may in his opinion be necessary or proper to operate said Library, and, to the extent that in the opinion of said Judge the circumstances permit, may require the official Court Reporter to operate the same or to assist therein, either with or without additional compensation therefor from said fund as the said Judge shall direct.

Section 5. In addition to the costs provided for in Section 2 and Section 3 hereof, there shall be taxed as costs the sum of Two Dollars (\$2.00) in each Civil or Quasi Civil Action at Law, Suit in Equity, Criminal Case, Quasi Criminal Case, proceeding on a Forfeited Bail Bond or proceeding on a Forfeited Bond given in connection with an appeal from a judgment of conviction in District Court to the Circuit Court hereinafter filed in, arising in, or brought by appeal, certiorari or otherwise to the Circuit Court of Talladega County, Alabama, which costs shall be collected as other costs in such cases are collected by the Clerk of said Court or the Register in Chancery thereof, as the case may be, and shall be paid into the General Fund of the county.

Section 6. There shall also be taxed as costs in cases hereafter filed in the District Court of the county the sum of Four Dollars (\$4.00) in each criminal case and in each civil case in which the amount in controversy does not exceed \$100.00, and the sum of Two Dollars (\$2.00) in each civil case in which the amount in controversy exceeds \$100.00, which costs shall be collected as other costs in such cases are collected, and when collected by the Clerk or other collecting officer of said court shall be paid by him to the General Fund of the county.

Section 7. There shall also be taxed as costs the sum of Five Dollars (\$5.00) in each case hereafter filed in each municipal court in Talladega County and in each case or proceeding hereafter filed in the Probate Court of said County, which costs shall be collected as other costs in such cases are collected, and when collected by the Clerk or other collecting officer of said Court shall be paid by him to the General Fund of the county.

Section 8. The said items of cost herein referred to shall be designated in said respective Courts as "Law Library Fee" and when any part of the costs in such a case or proceeding shall have been paid the amount necessary for the payment of said fee shall be applied thereto before applying any of the amount paid as costs to any other item of cost. On or before the 10th day of each month, the Clerk or other collecting officer of the respective Courts (including the Register in Chancery) shall pay to the said county General Fund the amount collected for said Law Library fees previous to the first day of the month.

Section 9. The sums herein provided for in Section 5, Section 6 and Section 7 shall be used by the county governing body for the support and maintenance of the Public Law Library provided for herein, and for the support and improvement of law enforcement within the county.

Section 10. If any sentence, clause, provision or section of this Act be declared to be invalid, the invalidity thereof shall not affect the validity of any other portion or provision of this Act, it being the intention to enact into law so much hereof as may validly become law, irrespective of the invalidity of any portion hereof.

Section 11. Act No. 261, Acts of Alabama 1951 Regular Session, is hereby repealed.

Section 12. This Act shall become effective upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-593

H. 949—Shoemaker, Moore, Dial,
Johnson (R.G.)

AN ACT

Applying only to Talladega County; providing for additional fees to be assessed against taxpayers delinquent in the payment of ad valorem taxes.

Be It Enacted by the Legislature of Alabama:

Section 1. This Act shall apply to Talladega County only.

Section 2. In addition to all other fees or costs provided for by law, there is hereby levied upon any taxpayer delinquent in the payment of ad valorem taxes, a tax collector's fee of five dollars plus a sum equal to the amount of six percent per annum of the total amount of delinquent taxes.

Section 3. In addition to all other fees or costs provided for by law, there is hereby levied a citation fee of five dollars, payable to the tax collector, for each demand upon delinquent taxpayers made in accordance with Section 40-5-7, Code of Alabama 1975, and a citation fee of five dollars, payable to the tax collector, for each notice of sale made in accordance with Section 40-5-14, Code of Alabama 1975.

Section 4. In addition to all other fees or costs provided for by law, there is hereby levied a fee of five dollars for each notice to or demand upon delinquent ad valorem taxpayers, and for each action required to collect delinquent ad valorem taxes, when such notice, demand, or action is required by law by any officer of the county, and when there is provided by law a fee or cost to be charged for the making of such notice or demand, or the carrying out of such action; provided, however, that the fee provided for in this Section 4 shall not apply to notices or demands for which a fee is provided in Section 3 of this Act.

Section 5. All fees provided for by this Act shall be paid into the county general fund for the use of the county.

Section 6. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications under this Act, which shall be given effect without the invalid provisions and applications, and to this end the provisions of this Act are

declared to be severable.

Section 7. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-594

H. 960—Ford

AN ACT

Relating to Rainbow City in Etowah County, so as to amend Act No. 430, S. 660, 1973 Regular Session, (1973 Acts, p. 624) which relates to the compensation of the chairman and board members of the Rainbow City Gas, Water and Sewer Board, so as to provide further for the compensation of such persons.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 430, S. 660, 1973 Regular Session (Acts 1973, p. 624) is hereby amended to read as follows:

“Section 1. There is hereby established a monthly compensation schedule for the Chairman and two Board members of the Rainbow City Gas, Water, and Sewer Board in Etowah County, to be paid as follows: The Chairman of said Board shall receive \$300.00 per month; the two Board members shall receive \$150.00, each, per month.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-595

H. 1020—Whatley, Adams (C)

AN ACT

Relating to Russell County; to abolish the office of license inspector; to place the powers, duties and functions of said office in the sheriff of said county; to provide for the disposition of fees accruing from the performance of the duties of license inspectors; and to provide the sheriff with employees to carry out the act.

Be It Enacted by the Legislature of Alabama:

Section 1. Notwithstanding the provisions of Section 40-12-10 of the Code of Alabama 1975, and any other general or local law of this state, no person shall be appointed to the position of county license inspector of or for Russell County. The position of county license inspector in said county is hereby abolished and the powers, duties and functions of said office shall henceforth be vested in and performed by the sheriff of said county. All fines, fees, and penalties heretofore paid to the license inspector for the performance of his duties of office shall be paid into the general fund of the county. The county commission shall provide the sheriff with employees necessary to perform the provisions of this act.

Section 2. All laws or parts of laws, general or local, which conflict with this act are hereby repealed as to Russell County.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-596

H. 1038—Stout, Rains

AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the municipality of Fort Payne, in DeKalb County; to provide for a referendum election on the question of annexation.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the municipality of Fort Payne in DeKalb County are hereby altered, rearranged and extended so as to include within the corporate limits of said municipality, in addition to the lands now included, all of the following territory, to-wit:

The following described property which lies adjacent and contiguous to the present city limits of the City of Fort Payne, Alabama, and more particularly described as follows:

The South $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ and the South $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ and the Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$, all in Section 25; the East $\frac{1}{2}$ of Section 35; and all of Section 36, all being in Township 6, South of Range 9 East in DeKalb County, Alabama.

The North $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ and the North $\frac{1}{2}$ of the

Northwest $\frac{1}{4}$ and the Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$, all in Section 1; the Northeast $\frac{1}{4}$ of Section 2; all in Township 7 South of Range 9 East in DeKalb County, Alabama.

The Southwest $\frac{1}{4}$ of Southeast $\frac{1}{4}$ of Section 19; the Southwest $\frac{1}{4}$ and the South $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ and the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ and the Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 29; the Northeast $\frac{1}{4}$ and the South $\frac{1}{2}$ of Section 30; all of Section 31; the West $\frac{1}{2}$ and the West $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of Section 32, all in Township 6, South of Range 10 East in DeKalb County, Alabama.

The North $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ and the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 5; the East $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ and the Northeast $\frac{1}{4}$ of Southwest $\frac{1}{4}$ of Section 6; all in Township 7 South of Range 10 East in DeKalb County, Alabama.

LESS AND EXCEPT: Any of the above-described property which lies within DeSoto State Park.

Section 2. The substantive provisions of this Act shall become operative only if the Act is approved by the qualified electors who reside within that part of the territory hereinabove described which is not presently included within the corporate limits of the City of Fort Payne, voting in a referendum election to be held on the day designated by the probate judge of DeKalb County, Alabama, on the first Tuesday after Labor Day, 1979. The notice of the election shall be given by the probate judge of DeKalb County, and the election shall be held, conducted and the results thereof canvassed in the manner prescribed by Article III, Chapter 42, Title 11, Code of Alabama 1975, for giving notice of and conducting elections on the question of annexing territory to cities of 25,000 or more inhabitants insofar as such provisions of said article may be appropriate; provided, however, no resolution of the municipal governing body need be made or filed with the probate judge, nor need a plat or map of the territory to be annexed be filed with the probate judge. The question shall be the adoption of Act No. _____ H. 1038 of the 1979 Regular Session of the Alabama Legislature, which alters, rearranges and extends the corporate limits of the City of Fort Payne, DeKalb County, Alabama. The City of Fort Payne shall pay all costs and expenses incident to the election. If a majority of the votes cast in the election are "yes," the provisions of this Act shall become operative immediately. If a majority of the votes cast in the election are "no," this Act shall have no further effect.

Section 3. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-597

H 1039—Smith (C)

AN ACT

Relating to Chilton County; to amend Act No. 123, H. 362, 1967 Regular Session (Acts 1967, p. 461), relating to pistol permit fees of such county, so as to increase said fees.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 1 and 2 of Act No. 123, H. 362, 1967 Regular Session (Acts 1967, p. 461), is hereby amended to read as follows:

“Section 1. In Chilton County the fee for issuance of a permit to carry a pistol in a vehicle or concealed on or about the person as provided in Section 13-6-155 Code of Alabama 1975, shall be ten dollars, which shall be collected by the sheriff.

Section 2. One dollar of each fee collected under Section 1 of this act shall be paid into the county treasury and the remaining nine dollars of each fee shall be deposited by the sheriff of Chilton County, in any bank located in Chilton County, into a fund known as the Sheriff's Fund.”

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 5:00 P.M.

Act No. 79-598

H. 1040—Smith (C)

AN ACT

Relating to Chilton County; to provide an additional expense allowance for the members of the county commission.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to any and all other salary, compensation, and expense allowances provided for by law, the chairman and members of the county commission of Chilton County shall each receive an additional expense allowance of \$100 per month to be paid out of the county general fund.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 5:00 P.M.

Act No. 79-599

S. 314—St. John, Robertson,
Kirkland, Mitchem, White,
Smith, Cook, Gulledge,
Goodwin, Harrison, Hall,
Barron, Britnell, Holmes,
Martin and Miller

AN ACT

To amend Sections 610 and 630 of Act No. 607, S. 33, Regular Session 1977 (Acts 1977, p. 812), the Alabama Criminal Code, so as to further provide and clarify the instances when a person may use deadly physical force in defense of a person and to further provide and clarify the instances when and the amount of force that may be used in making an arrest or preventing an escape.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 610 and 630 of Act No. 607, S. 33, Regular Session 1977 (Acts 1977, p. 812), the Alabama Criminal Code, are hereby amended to read as follows:

“Section 610. Justification: Use of Force in Defense of a Person.

“(1). A person is justified in using physical force upon another person in order to defend himself or a third person from what he reasonably believes to be the use or imminent use of unlawful physical force by that other person, and he may use a degree of force which he reasonably believes to be necessary for the purpose. A person may use deadly physical force if the actor reasonably believes that such other person is:

“(a) Using or about to use unlawful deadly physical force; or

“(b) Using or about to use physical force against an occupant

of a dwelling while committing or attempting to commit a burglary of such dwelling; or

“(c) Committing or about to commit a kidnapping in any degree, assault in the first or second degree, burglary in any degree, robbery in any degree, forcible rape or forcible sodomy.

“(2) Notwithstanding the provisions of subsection (1), a person is not justified in using deadly physical force upon another person if it reasonably appears or he knows that he can avoid the necessity of using such force with complete safety:

“(a) By retreating, except that the actor is not required to retreat

“(i) if he is in his dwelling or at his place of work and was not the original aggressor, or (ii) if he is a peace officer or a private person lawfully assisting a peace officer at his direction.

“(3) Notwithstanding the provisions of subsection (1), a person is not justified in using physical force if:

“(a) With intent to cause physical injury or death to another person, he provoked the use of unlawful physical force by such other person; or

“(b) He was the initial aggressor, except that his use of physical force upon another person under the circumstances is justifiable if he withdraws from the encounter and effectively communicates to the other person his intent to do so, but the latter nevertheless continues or threatens the use of unlawful physical force; or

“(c) The physical force involved was the product of a combat by agreement not specifically authorized by law.

“Section 630. Justification: Use of Force in Making an Arrest or Preventing an Escape.

“(1) A peace officer is justified in using that degree of physical force which he reasonably believes to be necessary, upon a person in order:

“(a) To make an arrest for a misdemeanor, violation, or violation of a criminal ordinance, or to prevent the escape from custody of a person arrested for a misdemeanor, violation, or violation of a criminal ordinance, unless the peace officer knows that the arrest is unauthorized; or

“(b) To defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force

while making or attempting to make an arrest for a misdemeanor, violation, or violation of a criminal ordinance or while preventing or attempting to prevent an escape from custody of a person who has been legally arrested for a misdemeanor, violation, or violation of a criminal ordinance.

“(2) A peace officer is justified in using deadly physical force upon another person when and to the extent that he reasonably believes it necessary in order:

“(a) To make an arrest for a felony or to prevent the escape from custody of a person arrested for a felony, unless the officer knows that the arrest is unauthorized; or

“(b) To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force.

“(3) Nothing in subsections (1) (a), or (2) (a), or (6) (b) constitutes justification for reckless or criminally negligent conduct by a peace officer amounting to an offense against or with respect to persons being arrested or to innocent persons whom he is not seeking to arrest or retain in custody.

“(4) A peace officer who is effecting an arrest pursuant to a warrant is justified in using the physical force prescribed in subsections (1) and (2) unless the warrant is invalid and is known by the officer to be invalid.

“(5) Except as provided in subsection (6), a person who has been directed by a peace officer to assist him to effect an arrest or to prevent an escape from custody is justified in using physical force when and to the extent that he reasonably believes that force to be necessary to carry out the peace officer's direction.

“(6) A person who has been directed to assist a peace officer under circumstances specified in subsection (5) may use deadly physical force to effect an arrest or to prevent an escape only when:

“(a) He reasonably believes that force to be necessary to defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force; or

“(b) He is authorized by the peace officer to use deadly physical force and does not know that the peace officer himself is not authorized to use deadly physical force under the circumstances.

“(7) A private person acting on his own account is justified in using physical force upon another person when and to the extent

that he reasonably believes it necessary to effect an arrest or to prevent the escape from custody of an arrested person whom he reasonably believes has committed a felony and who in fact has committed that felony, but he is justified in using deadly physical force for the purpose only when he reasonably believes it necessary to defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force.

“(8) A guard or peace officer employed in a detention facility is justified:

“(a) In using deadly physical force when and to the extent that he reasonably believes it necessary to prevent what he reasonably believes to be the escape of a prisoner accused or convicted of a felony from any detention facility, or from armed escort or guard;

“(b) In using physical force, but not deadly physical force, in all other circumstances when and to extent that he reasonably believes it necessary to prevent what he reasonably believes to be the escape of a prisoner from a detention facility.

“(c) ‘Detention facility’ means any place used for the confinement, pursuant to law, of a person:

“(i) Charged with or convicted of an offense; or

“(ii) Charged with being or adjudicated a youthful offender, a neglected minor or juvenile delinquent; or

“(iii) Held for extradition; or

“(iv) Otherwise confined pursuant to an order of a criminal court.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 5:00 P.M.

Act No. 79-600

H. 23—Holmes

AN ACT

To require moneys received by criminals as a result, directly or indirectly, of the sale of any story, article, book, play, script, et cetera about any portion of their lives or crimes to be paid to the state board of adjustment for distribution to the victims of their crimes; and to prescribe penalties for violation of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. Every person, firm, corporation, partnership, association or other legal entity contracting with any person or the representative or assignee of any person, indicted or convicted of a felony in this state, with respect to the reenactment of such crime, by way of a movie, book, magazine article, radio or television presentation, live entertainment of any kind, or from the expression of such person's thoughts, feelings, opinions or emotions regarding such crime, shall pay over to the board of adjustments any moneys which would otherwise, by terms of such contract, be owing to the person so convicted or his representatives. Any person, firm, corporation, partnership, association or other legal entity who fails to pay said moneys to the board of adjustment shall be guilty of a felony punishable by imprisonment for not less than one nor more than ten years and by a fine equal to the net proceeds earned as a result of the reenactment of the crime. The board of adjustment shall deposit such moneys in an escrow account for the benefit of and payable to any victim of crimes committed by such person, provided that such person is eventually convicted of the crime and provided further that such victim, within five years of the date of the crime, brings a civil action in a court of competent jurisdiction and recovers a money judgment against such person or his representatives.

Section 2. The board of adjustment shall maintain a list of criminals for whom money is being held in escrow. Said board of adjustment shall, once a year, send such list to each judge of probate of the state to be kept as a public record, open for inspection by the public.

The Board of adjustment shall notify all known victims or their families, as determined by the criminal's record that such escrow moneys are available to satisfy money judgments pursuant to this act. The cost of publication of the list of criminals and for the notification of victims as required by this Section 2, shall be paid out of the escrow account.

Section 3. If, five years after the establishment of the escrow account, neither the victim nor any of his heirs, as described above, have applied for the escrow monies, such monies shall revert to the state.

Section 4. Notwithstanding any inconsistent provision of the civil practice law and rules with respect to the timely bringing of an action, the five year period provided for in Section One of this act shall not begin to run until an escrow account has been established.

Section 5. Any action taken by any person convicted of a crime, whether by way of execution of a power of attorney, creation

of corporate entities or otherwise, to defeat the purpose of this act shall be null and void as against the public policy of this state.

Section 6. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 7. All laws or parts of laws which conflict with this act are hereby repealed.

Section 8. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-601

H. 206—Stewart

AN ACT

Relating to the regulation of the practice of podiatry in Alabama; further amending certain definitions and adding another definition; amending the make up of the State Board of Podiatry; amending the requirements for the renewal of licenses; amending Sections 34-24-230, 34-24-250, and 34-24-275, Code of Alabama, 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 34-24-250, Code of Alabama 1975 is hereby amended to read as follows:

“The governor of Alabama shall appoint a state board of podiatry consisting of seven persons, each of whom shall be a citizen of the United States and of Alabama, over the age of 25, and shall have been engaged in the actual continuous practice of podiatry in the state of Alabama for at least five years next preceding his appointment. One member of said board shall be appointed each year, with the exception of three members being appointed every fifth year starting in 1979, for terms of five years and until their successors are appointed and qualified. No member of the board shall be re-appointed for a successive term; previous board members will be eligible for non-successive appointments. The Governor may remove from office at any time any member of the board for neglect of duty, incompetency, improper or unprofessional conduct, or when the license or certificate of any member has been suspended or revoked. Vacancies on said board shall be filled by appointment by the Governor in the manner hereinbefore provided. The Governor shall furnish each member of

said board at the time of his appointment a certificate of appointment, and said appointee shall qualify by taking the usual oath of office before the judge of probate of his home county within 15 days from the date of his appointment."

Section 2. Section 34-24-275, Code of Alabama 1975 is hereby amended to read as follows:

"Every licensed podiatrist who desires to continue the practice of podiatry shall annually, on or before the first of October, pay to the secretary-treasurer of the state board a renewal registration fee of \$50.00 and comply with such other conditions as may be prescribed by the state board of podiatry; provided, however, that said license shall be renewed within 30 days after October first, or the licensee shall pay the renewal registration fee and a penalty of \$25.00. Among the conditions to be prescribed by the State Board of Podiatry is the requirement that evidence be furnished by the applicant for renewal of completion of a continuing education program. Such program shall consist of no less than twelve (12) hours, which shall be obtained at the annual state meeting of the Alabama Podiatry Association or any other continuing education program approved by the State Board of Podiatry. Any licensed podiatrist who is inactive in the practice of podiatry for a period of two years may have his license renewed to practice his profession on such conditions as may be prescribed by the state board of podiatry."

Section 3. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This Act shall take effect immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-602

H. 56—Owens

AN ACT

To amend Section 22-9-30, Code of Alabama 1975, relating to vital statistics so as to further provide for the registration of births by providing for the collection of the normal fee for a birth certificate and the reporting the birth and the forthwith issuance of a birth certificate by the state registrar.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 22-9-30 of the Code of Alabama 1975, is hereby amended to read as follows:

“§ 22-9-30. The birth of each child born in this state shall be registered as provided in this article. Within five days after the date of a birth there shall be filed with the local registrar of the registration district in which the birth occurred a certificate of such birth, which certificate shall be upon the form adopted by the state board of health, with a view to procuring a full and accurate report with respect to each item of information that may be required under Section 22-9-31. The institution in which the child is born, or in the case the child is not born in an institution then, the father or mother of the child, within five days after the date of such birth, shall report to the local registrar the fact of such birth. If the person reporting said birth is unable, by diligent inquiry, to obtain any item or items of information contemplated by section 22-9-31, the local registrar shall secure from the person so reporting, or from any other person having the required knowledge, such information as will enable him to prepare the certificate of birth contemplated in this section, and the person reporting the birth, or who may be interrogated in relation thereto, shall answer correctly and to the best of his knowledge all questions put to him by the local registrar, which may be calculated to elicit any information needed to make a complete record of the birth as contemplated by section 22-9-31; and the informant as to any statement made in accordance with this section shall verify such statement by his signature when requested so to do by the local registrar. In all such cases, the person reporting the birth shall collect the normal fee for a certified copy of the birth certificate from the mother or father, which fee shall be deposited with the local registrar of the registration district in which the birth occurred and which shall be forwarded to the state registrar when a complete record of the birth is obtained or when the local registrar files his monthly report, and the state registrar shall forthwith issue a certified copy of the birth certificate to the mother and father of the child. The issuance of a certified copy of the birth certificate by the State Registrar may not apply to births where adoption or illegitimation is indicated or where the infant's death occurred a short time following the birth, unless the certificate is requested by the father or mother.

“A receipt for a certificate filed shall be issued to any physician, midwife or head of a household by the local registrar upon demand. The absence of a certificate of birth of any child from the files of the state registrar shall be prima facie evidence that a certificate for said birth was not filed.”

Section 2. This act shall become effective October 1, 1979,

following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-603

H. 493—Zoghby

AN ACT

To amend Section 34-26-2, Code of Alabama 1975, which relates to confidential relations and communications between licensed psychologists and their clients, so as to include psychiatrists within this privilege.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 34-26-2, Code of Alabama 1975, is hereby amended to read as follows:

“§ 34-26-2.

“For the purpose of this chapter, the confidential relations and communications between licensed psychologists and licensed psychiatrists and clients are placed upon the same basis as those provided by law between attorney and client, and nothing in this chapter shall be construed to require any such privileged communication to be disclosed.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-604

H. 528—Greer, Letson, Carter,
Roberts, Bowling, Starkey,
Kelley, Smith (M), Cooley,
Stout, Albright, Coburn,
Gregg

AN ACT

Relating to the Transient Occupancy Tax; to increase the rate of said tax in certain counties; and to appropriate the proceeds thereof to the Alabama Mountain Lakes Association and to certain North Alabama counties for travel advertising and promotion; and for such purpose to amend Code of Alabama 1975, Sections 40-26-1 and 40-26-20.

Be It Enacted by the Legislature of Alabama:

Section 1. Code of Alabama 1975, Section 40-26-1, is hereby amended to read as follows:

“§ 40-26-1.

“There is hereby levied and imposed, in addition to all other taxes of every kind now imposed by law, a privilege or license tax upon every person, firm or corporation engaging in the business of renting or furnishing any room or rooms, lodging or accommodations to transients in any hotel, motel, inn, tourist camp, tourist cabin or any other place in which rooms, lodgings or accommodations are regularly furnished to transients for a consideration, in an amount to be determined by the application of the rate, in any county which is located in the geographic region comprising the Alabama mountain lakes area, those being Blount, Cherokee, Colbert, Cullman, Dekalb, Etowah, Franklin, Jackson, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan, Winston, of five percent of the charge for such room, rooms, lodgings or accommodations, including the charge for use or rental of personal property and services furnished in such room, and the rate of four percent of said charge in every other county; provided, that there is exempted from the tax levied under the provisions of this chapter any rentals or services taxed under the provisions of division 1 of article 1 of chapter 23 of this title. The tax shall not apply to rooms, lodgings or accommodations supplied for a period of 30 continuous days or more in any place.”

Section 2. Code of Alabama 1975, Section 40-26-20, is amended to read as follows:

“§ 40-26-20.

“One-fifth of the proceeds of the tax levied by this chapter in counties which are members of the Alabama Mountain Lakes Association, after deduction of an agreed upon cost of collection between the counties involved and the state department of revenue, such cost of collection not to exceed five percent, shall be appropriated in the following manner: Fifty percent of said portion shall be appropriated to the Alabama Mountain Lakes Association to be used for promotion of tourism and travel. The remaining fifty percent of said portion shall be paid to the respective counties to be used for the promotion of tourism, recreation and conventions. Said money shall be controlled by the county commission unless local law provides otherwise. The balance of all taxes or other funds received or collected by the department under the provisions of this chapter shall be without delay deposited in the state treasury. Three-

fourths of said balance of the revenue derived under this chapter shall be used exclusively for paying teachers' salaries, and the remaining one-fourth shall be used exclusively for state travel advertising and travel promotion by the state bureau of publicity and information from the appropriation made by the legislature."

Section 3. This act shall become effective upon the first day of the second month following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-605

H. 551—Kennedy (Y), Kennedy (C),
Bedsole, Harper, Buskey,
Smith (M), Albright,
Smith (J), Brakefield, Ward,
Campbell, Stewart, Owens,
Zoghby, Parker, Turner

AN ACT

To further authorize and empower the Department of Pensions and Security to operate child support programs, locate absent parents, establish paternity, enforce child support obligations, to collect and distribute support payments, and to conform with certain provisions of the Social Security Act, as amended, in order to obtain maximum benefits under the Social Security Act, as amended; and to prescribe penalties.

Be It Enacted by the Legislature of Alabama:

Section 1. This Act shall be known and may be cited as the Child Support Act of 1979.

Section 2. The Department of Pensions and Security of the State of Alabama shall operate child support programs, including, but not limited to, locating absent parents, establishing paternity, enforcing child support obligations and related matters, as described or defined by the Social Security Act and amendments thereto.

Section 3. As used in this Act, unless the context clearly dictates otherwise:

(1). "Department" shall mean the Department of Pensions and Security of the State of Alabama, including the State and County Departments of Pensions and Security.

(2). "Dependent child" or "needy child" shall mean a

dependent or needy child as described or defined by the Social Security Act and amendments thereto and by State law.

(3). "Child support programs" shall mean locating absent parents, establishing paternity, obtaining child support, and related matters as described or defined by the Social Security Act and amendments thereto and by State law.

(4). The terms or phrases "ADC," "AFDC," "aid to dependent children," and "aid to families with dependent children," shall have the same meaning and shall refer to the same public assistance program and may be used interchangeably to refer to the same program.

(5). "Aid" shall, standing alone, mean the same as "ADC" or "aid to dependent children" or "AFDC" or "aid to families with dependent children" and shall include "ADC Foster Care" ("AFDC Foster Care").

(6). For the purposes of this act a prosecuting or district attorney is hereby defined as a legal entity of each county included in the judicial circuit in which he holds office.

Section 4. As a condition of eligibility for aid, each recipient of aid to families with dependent children shall be deemed, by accepting aid for or on behalf of a dependent or needy child, to have made an assignment to the Department of the right to any child support owed for or to such child up to the amount of aid paid by the Department to the recipient. The Department shall be subrogated to the right of such child or recipients or the person having custody to collect and receive all child support payments and to initiate any support action existing now or in the future under the laws of Alabama.

Section 5. Notwithstanding any other provisions of this Act, as a condition of eligibility for aid, each recipient of aid to families with dependent children may be required to assign to the Department any rights to support from any other person which such recipient may have in his own behalf or in behalf of any other family member for whom the recipient is receiving aid, and which accrued at the time such assignment is executed, and which continue to accrue until said recipient family ceases to receive aid, and which may have effect as provided by the Social Security Act and amendments thereto. Such assignment to the Department of the right to any child support owed for or to such child up to the

amount of aid paid by the Department to the recipient shall conform with the requirements of the Social Security Act and amendments thereto. Such assignment shall make the Department assignee of and to the right of such child or recipient or the person having custody to collect and receive all child support payments and to initiate any support action existing now or in the future under the laws of Alabama and for the purpose of conforming and complying with the provisions of the Social Security Act and amendments thereto. An assignment made in accordance with the provisions to this Act by a parent or other person of any age shall be binding as if such parent or other person were over the age of 19 years.

Section 6. The payment of aid to or on behalf of a dependent or needy child creates a debt due and owing to the Department by the parent or parents of the child; provided, however, that in cases in which a court has ordered child support incident to a divorce decree or any other order for child support, the debt shall be limited to the amount specified in such court decree or court order. The liability for said debt to the Department shall apply only with respect to the support payments made during the period of time during which aid is granted and shall conform and comply with such court decree or court order and shall be handled by the Department in such a manner as to conform and comply with requirements of the Social Security Act and amendments thereto.

Section 7. Whenever anyone owing the obligation of support has failed to provide support to such child, and application is made to the Department on behalf of the child to whom support is owed, the Department may take appropriate action under this Act, or any other appropriate state and federal statutes, to assure that the responsible person or persons owing the obligation of support provide support to such child, including, but not limited to, civil or criminal actions to determine paternity and to enforce support obligations. All actions to determine paternity and to enforce support obligations may be brought in either the juvenile court or district court or the circuit court or appropriate federal court, and all presently existing statutes are hereby amended to provide that the juvenile courts and district courts and the circuit courts shall have concurrent jurisdiction of actions involving paternity, desertion, non-support, or support.

Section 8. Child support collections, in cases in which an assignment has been made and after the support payment has been made to the appropriate court pursuant to the provisions of this Act, shall be paid directly to the State Department and distribution shall be made by said Department in accordance with the

provisions of the Social Security Act and amendments thereto.

Section 9. (a). The Department is authorized and empowered to conduct investigations to determine whether or not a responsible parent is able to support a dependent or needy child as defined in this Act. (b). The Department is authorized and empowered to notify a parent of his legal duty to support his child and to require information concerning his financial status in order to determine whether or not he is financially able to provide support. (c). Such notice may inform the parent that he may be liable for reimbursement of any support furnished as public assistance or aid to his child prior to determination of his financial circumstances, as well as future and past support payments due on behalf of his child and not paid by him. (d). Any person who knowingly falsifies such parent's report of his income and resources and other matters bearing on his ability to provide support shall upon conviction be punished as for false swearing or perjury.

Section 10. It is intended that new or additional causes of action for the Department are created by the provisions of this Act. This Act shall be construed to create additional, alternative causes of action and shall in no way affect or impair any other remedy, civil or criminal, provided in any other statute or available under common law. The procedures, actions, and remedies provided in this Act shall in no way be exclusive but shall be in addition to and not in substitution of other proceedings available in the courts of this State or any other state or in any appropriate Federal Court. It is intended that this Act be construed and administered to the end that children shall be maintained from the resources of the responsible parents.

Section 11. In addition to the existing causes of action there is hereby created on behalf of any person who is owed a duty of support a civil cause of action which may be enforced in the district court, the circuit court, or any court having non-support jurisdiction or jurisdiction over the custody of children.

Section 12. The provisions of this Act are severable. If any part thereof is declared unconstitutional, such declaration shall not affect the part which remains.

Section 13. This Act shall take effect immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 606

H. 803—Owens, Bennett

AN ACT

To amend Section 41-9-325, Code of Alabama 1975, so as to give the Tannehill Furnace and Foundry Commission the specific power to make and alter rules and regulations governing the Tannehill Historical State Park; to make the violation of such rules a misdemeanor; and to give the commission police power over the park premises.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 41-9-325, Code of Alabama 1975, is hereby amended to read:

“§ 41-9-325. Commission a state agency; commission to have exclusive control over Tannehill Furnace and Foundry rule making power and police power. The commission shall be a state agency and shall have exclusive control over the Tannehill furnace and foundry and the area appurtenant thereto, the memorial park established under this division, all improvements and exhibits located thereon and any additions constructed, created, leased, acquired or erected in connection therewith. The commission shall have the power and authority to establish and promulgate and from time to time alter, amend or repeal rules and regulations concerning the preservation, protection and use of the Tannehill furnace and foundry and the memorial park and to preserve the peace therein. Any person who violates any rule or regulation so established and promulgated shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000 or imprisonment for not more than one year, or both, and may be adjudged to pay all costs of the proceedings. The commissioners shall have and are hereby vested with full police power to prefer charges against and to make arrests of any person or persons violating any such rule or regulation. The commission shall have full authority to designate any employee or employees of the commission as deputy police officers, who shall have full authority to prefer charges against or to make arrests of any person or persons violating any rule or regulation established and promulgated by the commission as provided hereunder.

Section 2. The provisions of this act are severable, and if any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part or parts which remain.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-607

H. 938—Blake

AN ACT

Relating to St. Clair County; to levy an additional privilege, license or excise tax upon sellers, distributors, or users of malt or brewed beverages and to provide for the collection and distribution of the proceeds of said tax.

Be It Enacted by the Legislature of Alabama:

Section 1. In St. Clair County, in addition to all other taxes heretofore provided by law, a county privilege, license or excise tax is hereby imposed upon every seller, distributor, storer or user of any malt or brewed beverages (including beer, lager beer, ale, porter, or similar fermented malt liquor containing one-half of one percent or more of alcohol by volume) in said county. The additional tax shall be an amount equal to two cents on each twelve fluid ounces or fractional part thereof, of malt or brewed beverages sold, used, consumed or distributed in the county. The tax shall be in addition to all other taxes heretofore or hereafter levied on such beverages; provided, that where the amount of the tax imposed by this Act shall have been paid to the county by any seller, distributor, dealer, or user, such payment shall be sufficient, the intent being that the tax levied by this Act shall be paid but once.

Section 2. (a) The provisions of Act No. 515, H. 1028 of the 1969 Regular Session, requiring the use of tax stamps as the method of paying the tax levied under said Act, may be suspended for successive periods of time not to exceed two years each, by the Chairman of the County Commission with the consent of the county governing body.

(b) All the books and records required by said Act No. 515 to be kept or maintained by any person shall be open to examination by the district attorney of the county, by the attorney general of the State of Alabama, and by the state department of examiners of public accounts at any time, whether or not the use of stamps is suspended as provided herein. The books and records shall be audited on an annual basis in the event the use of stamps is suspended.

(c) Upon any suspension of the use of stamps, the taxes levied under said Act No. 515 shall be paid in accordance with rules and

regulations adopted by the Chairman of the County Commission.

(d) If the use of stamps is suspended, their use may be reimposed under the provisions of said Act No. 515 at any time upon reasonable notice, by the Chairman of the County Commission or by resolution of the county governing body.

(e) At the end of any period of time for which the use of beer stamps is suspended, the use of such stamps may again be suspended for additional periods of time not to exceed two years each, by the Chairman of the County Commission with the consent of the county governing body.

Section 3. The proceeds of the tax imposed by this Act shall be paid into the general fund in the county treasury and shall be disbursed as follows: One-half of the net proceeds shall be paid to the Road and Building Fund, which money shall be used for the operation of the St. Clair County Road Department, in the building and maintenance of all public roads and bridges in the county; the balance of said tax shall remain in the general fund to be disbursed by the St. Clair County Commission as any other funds in the county are disbursed.

Section 4. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. The provisions of this Act shall become effective on the first day of the month following the expiration of two months from the date this bill becomes law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-608

H. 944—Johnson (R.G.), Shoemaker,
Moore, Dial

AN ACT

Relating only to Talladega County; providing for the suspension of the use of beer stamps as a method of collecting certain local taxes under certain circumstances; providing for rules and regulations for the collection of such taxes; and further providing for the reimposition of such beer stamp use under certain circumstances.

Be It Enacted by the Legislature of Alabama:

Section 1. This Act applies to Talladega County only.

Section 2. The provisions of Act No. 1599, Acts of Alabama, Regular Session, 1971, requiring the use of tax stamps as the method of paying the tax levied under said Act, may be suspended for successive periods of time not to exceed two years each, by the Probate Judge with the consent of the county governing body.

Section 3. All the books and records required by said Act No. 1599 to be kept or maintained by any person shall be open to examination by the District Attorney of the county, by the Attorney General of the State of Alabama, and by the State Department of Examiners of Public Accounts at any time, whether or not the use of stamps is suspended as provided herein.

Section 4. Audit of the books and records, applicable under said Act No. 1599, shall be conducted on an annual basis.

Section 5. Upon any suspension of the use of stamps, the taxes levied under said Act 1599 shall be paid in accordance with rules and regulations adopted by the Probate Judge.

Section 6. If the use of stamps is suspended, their use may be reimposed under the provisions of said Act No. 1599 at any time upon reasonable notice, by the Probate Judge or by resolution of the county governing body.

Section 7. At the end of any period of time for which the use of beer stamps is suspended, the use of such stamps may again be suspended for additional periods of time not to exceed two years each, by the Probate Judge with the consent of the county governing body.

Section 8. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-609

H. 947—Shoemaker, Moore, Dial,
Johnson (R.G.)

AN ACT

Relating only to Talladega County; levying an additional privilege or license tax on the sale or distribution of malt or brewed beverages within the county; and providing for the method of collection thereof.

Be It Enacted by the Legislature of Alabama:

Section 1. This Act applies to Talladega County only.

Section 2. In addition to all other taxes and licenses now imposed by law, including the tax levied by the provisions of Act No. 1599, Acts of Alabama, Regular Session, 1971, there is hereby levied upon every distributor or seller of malt or brewed beverages a license or privilege tax which shall be a sum equal to one cent on each container of 12 ounces or less and one-sixth of a cent on each additional ounce over 12 ounces per container of malt or brewed beverages sold, distributed or delivered, provided, however, that where the additional privilege or license tax hereby required to be paid shall have been paid by a distributor or seller of malt or brewed beverages, such payment shall be sufficient, the intent being that such license tax hereby required to be paid shall be paid but once on the same identical beverage.

Provided, however, that the tax levied herein shall apply to malt or brewed beverages in the possession of wholesale dealers or jobbers held for the sole purpose of resale or re-shipment into a county not subject to the provisions of this Act.

Section 3. The tax levied herein shall be paid in the same manner and at the same time as the tax levied under said Act No. 1599, and shall be subject to any rules and regulations adopted to enforce the provisions of said Act No. 1599.

Section 4. The tax levied by this Act shall be paid to the probate judge of the county who shall distribute the net proceeds from such license tax after deducting all costs of collection as follows: (a) The sum of \$4,000 dollars shall be paid annually into the county general fund for the sole use as follows: (i) the sum of \$1,000 dollars per annum shall be spent in the unincorporated community of Eastaboga for public projects for the benefit of said community; (ii) the sum of \$1,500 dollars per annum shall be spent in the unincorporated community of Munford to provide rural health care in the existing rural health clinic in said community; and (iii) the sum of \$1,500 dollars per annum shall be spent in the unincorporated community of Munford for youth activities, including the construction, improvement, lighting and maintenance of athletic playing fields; (b) After the payment of the sums provided for in subsection (a) of this Section, 90 per cent of the net proceeds of the said license tax shall be distributed as follows: (i) to the Talladega County Board of Education 40% of said proceeds, (ii) to the Talladega City Board of Education 25% of said proceeds, and (iii) to the Sylacauga City Board of Education 25% of said proceeds, and the remaining 10 per cent of the net proceeds shall be

paid half to the North Talladega County Association for Retarded Citizens, Inc., and half to the South Talladega County Association for Retarded Citizens, Inc. All distributions under this section are to be in addition to any other appropriation or allocation for such purposes heretofore made.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-610

H. 950—Shoemaker, Moore, Dial,
Johnson (R.G.)

AN ACT

Applying only to Talladega County; providing for the creation of a county license inspector and deputy county license inspector; providing for delinquency and citation fees, commissions and penalties allowable to such inspector; providing that all license inspector's fees, commissions and penalties be paid into the county general fund for the use of the county; and repealing all conflicting provisions of law.

Be It Enacted by the Legislature of Alabama:

Section 1. There are hereby created and established the offices of county license inspector and deputy license inspector in Talladega County.

Section 2. The license inspector, and any deputy license inspectors as may be authorized by the county governing body, shall, with the approval of the county governing body, be appointed by the chairman of the governing body and shall serve at the pleasure of such appointing authority.

Section 3. The salary of the license inspector and any deputy license inspectors shall be in such sum as shall be approved by the governing body of the county and shall be payable in equal monthly installments out of the general fund of the county. The license inspector shall be a county officer and shall maintain his office in the courthouse of the county. Any deputy license inspectors shall be county officers, and shall maintain offices in such places as may be authorized by the county governing body.

Section 4. The license inspector and any deputy license inspectors shall, before entering upon the duties of their offices, take the oath of office prescribed in the Constitution, and shall enter

into bond, which bond shall be conditioned as other official bonds are conditioned and be in such penal sum and form as the governing body of the county may prescribe. Said bond shall be approved by and be filed with the Probate Judge of the county and may be made by any surety company or companies authorized and qualified to do business in the State of Alabama. All premiums on said bond shall be payable out of the general fund of the county.

Section 5. The county governing body of such county shall furnish and equip suitable office space for the license inspector and any deputy license inspector, and shall furnish and supply all stationery, equipment and supplies necessary for the conduct of such offices, except such stationery and supplies as the law requires the State Department of Revenue or the State Department of Finance to furnish to license inspectors.

Section 6. All duties and authority imposed on or vested in license inspectors by Section 40-12-10, Code of Alabama 1975, or by any other statute, are hereby imposed upon and vested in the office of the county license inspector and in the office of deputy county license inspector created by this Act, and such license inspector and such deputy license inspectors shall perform such further duties as may be prescribed by the county governing body.

Section 7. Fees, commissions and penalties due to license delinquencies shall be as provided by Section 40-12-10, Code of Alabama 1975, as amended, or by any other statute; provided, however, that in addition to all other penalty or fees for delinquency in payment of any license, there shall be a delinquency fee in the penal sum of ten dollars.

Section 8. All citations to delinquents shall be served, by mail or otherwise, by any lawful officer, or by the county license inspector, or his deputy, who shall be allowed as a fee five dollars for each citation served, in lieu of any other fee provided by law for the service of such citations, to be taxed against the delinquent.

Section 9. No fees, commissions, or penalties shall be paid to any license inspector appointed under the provisions of Section 40-12-10, Code of Alabama 1975. All fees, commissions and penalties allowable to the county license inspector, or his deputy under any provision of law, or to any license inspector appointed under the provisions of Section 40-12-10, Code of Alabama 1975, shall be paid into the general fund of the county for the use of the county.

Section 10. If any provisions of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications under

this Act, which shall be given effect without the invalid provisions and applications, and to this end the provisions of this Act are declared to be severable.

Section 11. All laws or parts of laws in conflict with this Act are hereby repealed.

Section 12. This Act shall become effective January 1, 1980.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-611

H. 239—Holley

AN ACT

To provide for the granting of up to five (5) years creditable service under the Teachers' Retirement System of Alabama for employment-service in public education rendered in states other than Alabama; to provide further for the granting of up to five (5) years creditable service under the Employees' Retirement System of Alabama for public employment rendered in states other than Alabama; to provide for the methods and procedures to calculate the member contributions required to purchase such credit and the conditions for eligibility; and to provide that the member shall pay the total cost for such credit.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) Any member of the Teachers' Retirement System of Alabama shall be eligible to receive up to five (5) years of creditable service for employment in public education in states other than Alabama, and, any member of the Employees' Retirement System of Alabama shall be eligible to receive up to five (5) years of creditable service for public employment rendered in states other than Alabama, provided that the member of the retirement system claiming such credit shall have attained not less than ten (10) years of contributing membership service credit, exclusive of military service credit, under the retirement system of which he is a member, and, provided further that such member performs and complies with the conditions prescribed in subsection (b) of this Section.

(b) A member of the Teachers' or Employees' Retirement System of Alabama, eligible under subsection (1) of this Section, may receive credit for public service rendered in states other than Alabama as provided in subsection (a), provided that as conditions precedent to the receipt of such credit:

(1) such member shall contribute prior to the date of his retirement, to his respective retirement system, for each year of out-of-state service credit, a percentage of his current annual earnable compensation; the applicable percentage of said annual

earnable compensation shall be the sum of the prevailing percentage rates of employer and member contributions, as required by the most recent actuarial valuation;

(2) the public retirement system of such other state, county, city or other political subdivision thereof shall certify in writing to the applicable retirement system that the member had credit under said retirement system for the service claimed;

(3) the member shall claim, purchase and receive credit for out-of-state service in increments of not less than one (1) year, unless such member's total or balance of out-of-state service is less than one (1) year, in which event, he shall claim and purchase credit for the entire period;

Section 2. Any person who is retired under the Teachers' or Employees' Retirement System of Alabama may receive credit for out-of-state service under the same conditions as is provided herein for active member, except that, in lieu of current compensation, the contribution shall be based on his average final salary at the time of retirement; and provided such person was retired on or before the effective date of this Act; and provided further that such retired person makes his contribution in a lump sum prior to the expiration of a period being one (1) year next following the effective date of this Act. Any retirant so claiming and contributing the amount herein required shall have his retirement allowance redetermined on the basis of such additional creditable service, provided that any increase in such retirant's retirement allowance shall be payable to him only throughout his life and shall not affect, alter, increase, decrease, or in any other way change the amount payable to such retirant's estate or designated beneficiary or surviving spouse, except under the provisions of Option I, whereunder the contributions made pursuant to this Act shall be treated as part of the retirant's accumulated contributions.

Section 3. Anything in this Act to the contrary notwithstanding, a member shall not receive credit for such out-of-state service where at the time of retirement he has credit or is entitled to any benefits whatsoever for the same service under any other retirement or pension plan, including but not limited to TIAA-CREF, and which is wholly or partly funded from public funds, or other monies of public institutions of this or any other state or political subdivision thereof; provided that nothing herein shall be construed to apply to participation in the Federal Social Security program. In the event of disqualification of out-of-state service credit, contributions made under this Act by the member shall be refunded to him.

Section 4. The retirement system may deduct in twelve (12) equal installments, from the retirement allowance payable to a retired member, any additional contribution necessary to pay the administrative cost incurred in granting the credit hereunder in the event its board of control and consulting actuary thereto determine that the amounts contributed by the member under the provisions hereof are insufficient to pay such administrative cost.

Section 5. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 6. This Act shall become effective immediately upon its passage and approval by the Governor or its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-612

H. 71—Letson, Whatley

AN ACT

To amend Section 8-16-51 of Title 8 of the Code of Alabama 1975 to increase the annual appointment fee required to be paid to the Commissioner of Agriculture and Industries by persons appointed or designated as weighmasters by increasing the annual fee to \$10.00.

Be It Enacted by the Legislature of Alabama:

Section 1. § 8-16-51 of the Code of Alabama 1975 relating to weighmasters is hereby amended so as to read as follows:

“§ 8-16-51. (a) The term of appointment for weighmasters shall be for one year.

“(b) A fee of \$10.00, which shall accrue to the agricultural fund, shall be paid to the commissioner of agriculture and industries by each person appointed or designated as weighmaster.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law; provided, however, any weighmaster whose term of appointment has not expired on or after the effective date of this Act shall not be required to pay the increased permit fee during such term.

Approved July 30, 1979

Time: 5:00 P.M.

Act No. 79-613

H. 201—Campbell, Willis

AN ACT

To require all of the right, title and interest of the State of Alabama in and to the real property acquired by and in the name of the State of Alabama for the use and benefit of the state educational institution formerly known as Jacksonville State College at Jacksonville, Alabama, is hereby conveyed to and vested in Jacksonville State University, the body corporate created by Act No. 239, Regular Session 1967, approved August 16, 1967.

Be It Enacted by the Legislature of Alabama:

Section 1. All of the right, title and interest of the State of Alabama in and to the real property acquired by and in the name of the State of Alabama for the use and benefit of the state educational institution formerly known as Jacksonville State College at Jacksonville, Alabama, is hereby conveyed to and vested in Jacksonville State University, the body corporate created by Act No. 239, Regular Session 1967, approved August 16, 1967.

Section 2. All laws or parts of laws in conflict herewith are expressly repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 5:00 P.M.

Act No. 79-614

H. 298—Coburn, Goodwin

AN ACT

To transfer the LaGrange Historical Site owned by the LaGrange Historical Commission of the State of Alabama to the Alabama Historical Commission.

Be It Enacted by the Legislature of Alabama:

Section 1. The LaGrange Historical Site, Colbert County, Alabama, owned by the LaGrange Historical Commission is hereby transferred to the Alabama Historical Commission which shall have full authority to develop, renovate, preserve, maintain, operate, exhibit, and publicize the LaGrange Historical Site in accordance with the powers and responsibilities of said commission. The LaGrange Historical Commission Board of

Trustees shall cause an appropriate deed or conveyance to be executed in accordance with the provisions of this Act.

Section 2. All unencumbered and unexpended funds appropriated to the LaGrange Historical Commission shall be transferred to the Alabama Historical Commission.

Section 3. The LaGrange Historical Commission is hereby redesignated the LaGrange Advisory Committee and shall advise the Alabama Historical Commission regarding the restoration and development of the site.

Section 4. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 5. This Act shall become effective October 1, 1977.

Approved July 30, 1979

Time: 5:00 P.M.

Act No. 79-615

H. 317—Sasser

AN ACT

Relating to the eradication and control of swine diseases; to make an appropriation to the Department of Agriculture and Industries for the fiscal year ending September 30, 1980, to indemnify owners of swine for the value of any swine ordered condemned and destroyed for the prevention and eradication of the disease of hog cholera, African swine fever and other swine diseases.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1980, there is hereby appropriated to the Department of Agriculture and Industries out of any monies in the state treasury not otherwise appropriated the sum of One Hundred Thousand Dollars (\$100,000) or so much thereof as may be necessary for the fiscal year, which said sum shall be used and expended by said department for the purpose of paying and indemnifying the owners of swine for the value of any swine ordered and directed to be condemned and destroyed by the Commissioner of Agriculture and Industries or the State Veterinarian for the purpose of arresting, eradicating and preventing the spread of hog cholera disease, African swine fever and other diseases of swine. The amount of any payments to owners of swine from the appropriation herein made shall be determined pursuant to the procedure and method set forth under Sections 2-15-160 through 2-5-168 of the Code of Alabama, 1975.

Section 2. The appropriation herein made shall be conditioned upon the condition of the general fund and with the approval of the Governor.

Section 3. This Act shall become effective on October 1, 1979.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-616

H. 331—Venable, Barton, Greer,
Goodwin, Coburn, Starkey,
Albright, Hall, Smith (M),
Smith (J), Brakefield, Patton,
Zoghby, Parker, Ward,
Whatley, Adams (C),
Cheatwood, Mitchell, Cosby,
Edwards, Grouby, Williams,
Manley

AN ACT

Relating to elections; to provide for hours of voting; and for such purpose amending Code of Alabama 1975, Section 17-7-6, and repealing Sections 17-7-10 and 17-9-30.

Be It Enacted by the Legislature of Alabama:

Section 1. Every polling place shall open for voting no later than 8:00 a.m. and shall close no earlier than 6:00 p.m. nor later than 8:00 p.m. and shall remain open for voting for not less than 10 consecutive hours. The precise hours of voting for each polling place, within these limits, shall be prescribed by the county commission.

Section 2. Code of Alabama 1975, Section 17-7-6, is amended to read as follows:

“§ 17-7-6. When paper ballots are used, the inspectors, clerks, and returning officers appointed shall meet at the place of holding elections in the several precincts for which they have been appointed not later than fifteen minutes before the hours of voting in the county commence and shall open the several polling places at the time designated.”

Section 3. Code of Alabama 1975, Sections 17-7-10 and 17-9-30 are repealed.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 5:30 P.M.

Act No. 79-617

H. 360—Gafford

AN ACT

To amend Sections 22-5-2, 22-5-4, 22-5-5, 22-5-6 and 22-5-7, Code of Alabama 1975, relating to the state commission on physical fitness, so as to provide further for the protection, promotion and improvement of the physical fitness of residents of the state; to provide further for the number of members constituting a quorum; to provide further for the duties of the commission; and to provide further for merit system employment for employees of the commission.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 22-5-2, 22-5-4, 22-5-5, 22-5-6 and 22-5-7, Code of Alabama 1975, are hereby amended as follows:

“§ 22-5-2. There is hereby created a state commission on physical fitness, which hereafter may be referred to as the governor’s commission on physical fitness, for the purpose of protecting, promoting and improving the physical fitness of the residents of the state.

“§ 22-5-4. The commission shall meet regularly at the call of the governor, the executive director or the chairman. Nine commissioners shall constitute a quorum. The commission shall adopt such rules and regulations as are necessary and proper to govern its procedure and business.

“§ 22-5-5. The commission shall maintain liaison with the state department of education, county and city boards of education, private and parochial schools, and physical fitness commissions of the several political subdivisions of this state, now or hereafter created, and comparable agencies in other states or under the federal government, and it shall consult with and advise the local commissions on their programs of physical fitness. It shall disseminate information in the interest of physical fitness programs in this state by publication, advertisement, conferences, workshops, programs, lectures and other means, and it shall collect and assemble pertinent information and data available from other state departments and agencies. The commission is authorized to sponsor the George Lindsey Celebrity Weekend, the Alabama Great Stars Show and the special olympics for mentally retarded and physically handicapped children at the state, national and international level. The commission is further authorized to promote jogging, hiking, bicycling and other physical fitness programs. It is also authorized to co-sponsor programs with the state commission on aging to improve the health and well-being of

the older people in the state.

“§ 22-5-6. The governor, upon recommendation of the commission, shall appoint an executive director of the commission. Such director shall serve as secretary of the commission and as chief administrator and executive officer of the commission, having general charge of the work of the commission under its direction. All employees presently employed by the state commission on physical fitness, including the executive director, shall be encompassed within this Act with no adverse effect as to salary, and shall, by virtue of this Act, be considered to meet the requirements of the commission in terms of educational training and experience, and shall automatically be placed within the state merit system with all of the rights and privileges thereof, and shall enjoy the same employment and retirement privileges and rights as the legislature may determine from time to time, or as may otherwise be determined by law or administrative rule or regulation according to the rules and regulations of the personnel department of the State of Alabama. All new, future employees of the commission shall be required to meet the requirements of the state merit system.

“§ 22-5-7. The executive director shall, subject to the state merit system law, appoint professional, technical, clerical, stenographic and other personnel to carry out the duties and functions of the commission.”

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 5:00 P.M.

Act No. 79-618

H. 381—Pegues

AN ACT

To amend Section 40-18-15 of the Code of Alabama 1975, as amended, relating to state income tax deductions for individuals so as to increase the percentage of such deductions allowable for contributions or gifts to religious, charitable or scientific institutions.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 40-18-15 of the Code of Alabama 1975, as amended, is hereby further amended to read as follows:

“§ 40-18-15.

“(a) In computing net income, there shall be allowed as deductions:

“(1) All ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered and including rentals and other payments required to be made as a condition of the continued use or possession for the purpose of trade or business of property to which the taxpayer has not taken or is not taking title or in which he has no equity;

“(2) All interest paid or accrued within the taxable year on indebtedness, but, in the case of a nonresident, the proportion of such interest which the amount of gross income from sources within the state of Alabama bears to the amount of gross income from all sources within and without the state of Alabama;

“(3) Taxes paid or accrued within the taxable year imposed:

“a. By authority of the United States;

“b. By the authority of any of the possessions of the United States;

“c. By the authority of any states or territory, except income tax, including the state of Alabama, or of any county, school district, municipality or other taxing subdivision of the state of Alabama, except the income tax herein levied; provided, that the amount of federal income tax apportioned to Alabama may be determined by the ratio that the amount of net income on business done within Alabama bears to the amount of net income from business within and without the state of Alabama;

“(4) Losses sustained during the taxable year and not compensated for by insurance or otherwise if incurred in trade or business;

“(5) Losses sustained during the taxable year and not compensated for by insurance or otherwise, if incurred in any transaction entered into for profit, though not connected with the trade or business; but, in the case of a taxpayer other than a resident of the state, only as to such transactions within the state;

“(6) Losses sustained during the taxable year of property not connected with the trade or business, but in the case of a taxpayer other than a resident of the state only of property within the state, if arising from fires, storms, shipwrecks or other casualty or from theft and not compensated for by insurance or otherwise;

"(7) Losses from debts ascertained to be worthless and charged off during the taxable year of such ascertainment, if sustained in the conduct of the regular trade or business of the taxpayer during the period covered by an Alabama income tax law;

"(8) A reasonable allowance for the exhaustion, wear and tear of property from which any income is derived including a reasonable allowance for obsolescence;

"(9) In the case of mines, oil and gas wells, other natural deposits and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar condition in each case based upon the cost, including the cost of development not otherwise deducted, such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the department of revenue; and, in the case of leasehold interests, the deduction allowed by this section shall be equitably proportioned between the lessor and the lessee;

"(10) Contributions or gifts made within the taxable year to recognized religious, charitable and scientific or educational institutions or institutions for the prevention of cruelty to children or animals, which are not operated for profit and no part of the net earning of which inures to the benefit of any private stockholder or individual, the amount of such deduction not to be, however, in excess of 15 percent of the taxpayer's adjusted gross income. Such contributions or gifts shall be allowable as deductions only where made to institutions recognized as institutions for the above purposes under rules and regulations prescribed by the department of revenue. In the case of a nonresident individual, this deduction shall be allowed only as to contributions or gifts made to domestic corporations or institutions within the state of Alabama or to such vocational rehabilitation fund, and as to such contributions to the vocational rehabilitation fund only in the proportion of the total of such contributions which the amount of gross income from all sources within the state of Alabama bears to the amount of gross income from all sources within and without the state of Alabama;

"(11) If contributions are paid by an employer to or under a stock bonus, pension, profit-sharing or annuity plan, or if compensation is paid or accrued on account of any employee under a plan deferring the receipt of such compensation, such contributions or compensation shall be deductible, but only to the following extent:

"a. In the taxable year when paid, if the contributions are paid into a pension trust and if such taxable year ends within or with a taxable year of the trust for which the trust is exempt under

section 40-18-25 in an amount determined as follows:

"1. An amount not in excess of five percent of the compensation otherwise paid or accrued during the taxable year to all the employees under the trust, but such amount may be reduced for future years if found by the commissioner of revenue upon periodic examinations at not less than five-year intervals to be more than the amount reasonably necessary to provide the remaining unfunded cost of past and current service credits of all employees under the plan, plus

"2. An excess over the amount allowable under subparagraph 1 necessary to provide with respect to all of the employees under the trust the remaining unfunded cost of their past and current service credits distributed as a level amount, or a level percentage of compensation, over the remaining future service of each such employee, as determined under regulations prescribed by the commissioner of revenue, but if such remaining unfunded cost with respect to any three individuals is more than 50 percent of such remaining unfunded cost, the amount of such unfunded cost attributable to such individuals shall be distributed over a period of at least five taxable years, or

"3. In lieu of the amounts allowable under subparagraph 1 and 2 above, an amount to the normal cost of the plan, as determined under regulations prescribed by the commissioner of revenue plus, if past service or other supplementary pension or annuity credits are provided by the plan, an amount not in excess of 10 percent of the cost which would be required to completely fund or purchase such pension or annuity credits as of the date when they are included in the plan, as determined under regulations prescribed by the commissioner of revenue, except that in no case shall a deduction be allowed for any amount (other than the normal cost) paid in after such pension or annuity credits are completely funded or purchased,

"4. Any amount paid in a taxable year in excess of the amount deductible in such year under the foregoing limitations shall be deductible in the succeeding taxable years in order of time to the extent of the difference between the amount paid and deductible in each such succeeding year and the maximum amount deductible for such year in accordance with the foregoing limitations.

"b. In the taxable year when paid, in an amount determined in accordance with paragraph a of this subsection, if the contributions are paid toward the purchase of retirement annuities and such purchase is a part of a plan which meets the requirements of subsection (e) of section 40-18-25, and if refunds of premiums, if

any, are applied within the current taxable year or next succeeding taxable year towards the purchase of such retirement annuities;

“c. In the taxable year when paid, if the contributions are paid into a stock bonus or profit-sharing trust, and if such taxable year ends within or with a taxable year of the trust with respect to which the trust is exempt under subsection (e) of section 40-18-25, in an amount not in excess of 15 percent of the compensation otherwise paid or accrued during the taxable year to all employees under the stock bonus or profit-sharing plan. If in any taxable year beginning after the approval of this law by the governor there is paid into the trust, or a similar trust then in effect, amounts less than the amounts deductible under the preceding sentence, the excess or, if no amount is paid, the amounts deductible shall be carried forward and be deductible when paid in the succeeding taxable years in order of time, but the amount so deductible under this sentence in any such succeeding taxable year shall not exceed 15 percent of the compensation otherwise paid or accrued during such succeeding taxable year to the beneficiaries under the plan. In addition, any amount paid into trust in a taxable year beginning after the approval of this law by the governor in excess of the amount allowable with respect to such year under the preceding provisions of this subdivision shall be deductible in the succeeding taxable years in order of time, but the amount so deductible under this sentence in any one such succeeding taxable year together with the amount allowable under the first sentence of this subdivision shall not exceed 15 percent of the compensation otherwise paid or accrued during such taxable year to the beneficiaries under the plan. The term ‘stock bonus or profit-sharing trust,’ as used in this paragraph, shall not include any trust designed to provide benefits upon retirement and covering a period of years, if under the plan the amounts to be contributed by the employer can be determined actuarially as provided in paragraph a. If the contributions are made to two or more stock bonus or profit-sharing trusts, such trusts shall be considered a single trust for the purposes of applying the limitations in this paragraph;

“d. In the taxable year when paid, if the plan is not one included in paragraphs a, b or c, if the employees’ rights thereto are derived from such employer’s contribution or such compensation is nonforfeitable at the time the contribution or compensation is paid;

“e. For the purposes of paragraphs a, b and c, a taxpayer on the accrual basis shall be deemed to have made a payment on the last day of the year of accrual if the payment is on account of such taxable year and is made within 60 days after the close of the taxable year of accrual;

"f. If amounts are deductible under paragraphs a and c, b and c, or a, b and c, in connection with two or more trusts, or one or more trusts and an annuity plan, the total amount deductible in a taxable year under such trusts and plans shall not exceed 25 percent of the compensation otherwise paid or accrued during the taxable year to the persons who are the beneficiaries of the trusts or plans. In addition, any amount paid into such trust or under such annuity plans in a taxable year beginning after the approval of this law by the governor in excess of the amount allowable with respect to such year under the preceding provisions of this paragraph shall be deductible in the succeeding taxable years in order of time, but the amount so deductible under this sentence in any one such succeeding taxable year together with the amount allowable under the first sentence of this paragraph shall not exceed 30 percent of the compensation otherwise paid or accrued during such taxable years to the beneficiaries under the trusts or plans. This paragraph shall not have the effect of reducing the amount otherwise deductible under paragraph a, b and c, if no employee is a beneficiary under more than one trust, or a trust and an annuity plan. If there is no plan but a method of employer contributions or compensation has the effect of a stock bonus, pension, profit-sharing or annuity plan, or similar plan deferring the receipt of compensation, this subsection shall apply as if there were such a plan;

"(12) For each individual income taxpayer, medical and dental expenses, including expenses for medicine and drugs and amounts paid for accident and health insurance, paid during the taxable year 1965 and each year thereafter, to the same extent and subject to the same limitations when applied to the taxpayer's adjusted gross income for state tax purposes, as prescribed under the laws of the United States in force and effect December 31, 1964, in relation to income taxes due the United States;

"(13) For each individual income taxpayer, all the ordinary and necessary expenses paid or incurred during the taxable year for the production or collection of income, or for the management, conservation or maintenance of property held for the production of income;

"(14) Cash contributions and gifts of cash or real property made within the taxable year to the state of Alabama, or any county, municipality or other political subdivision thereof, for exclusively public purposes, and the deduction for gifts of real property shall be the fair and reasonable market value thereof, on the day such gift is made, to be determined in accordance with rules and regulations adopted by the commissioner of revenue; and

“(15) Any expense not exceeding \$1,000.00 actually incurred during the taxable year in constructing on his property a family radioactive fallout shelter, as approved and certified by the state department of civil defense, and any amount not exceeding \$1,000.00 which he contributed during the taxable year toward the construction of a community radioactive fallout shelter; and

“(16) a. An amount equal to the aggregate of the net operating loss carryovers to the taxable year, plus the net operating loss carrybacks to such year. For purposes of this subdivision, the term ‘net operating loss deduction’ means the deduction allowed by this paragraph.

“b. 1. A net operating loss for any taxable year ending after December 31, 1974, and before January, 1976, shall be a net operating loss carryback to the tax year preceding the taxable year of such loss. A net operating loss for any taxable year ending after December 31, 1975, and before January 1, 1977, shall be a net operating loss carryback to each of the two taxable years preceding the taxable year of such loss. A net operating loss for any taxable year ending after December 31, 1976, shall be a net operating loss carryback to each of the three taxable years preceding the taxable year of such loss.

“2. A net operating loss for any taxable year ending after December 31, 1976, shall be a net operating loss carryover to each of the five taxable years following the taxable year of such loss.

“c. The entire amount of the net operating loss for any taxable year (hereinafter referred to as the ‘loss year’) shall be carried to the earliest of the taxable years to which, by reason of paragraph b, such loss may be carried. The portion of such loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of such loss over the sum of the taxable income for each of the prior taxable years to which such loss may be carried. For purposes of the preceding sentence, the taxable income for any such prior taxable year shall be computed:

“1. With the modification specified in subparagraph 2 of paragraph e of this subdivision; and

“2. By determining the amount of the net operating loss deduction without regard to the net operating loss deduction without regard to the net operating loss for the loss year or for any taxable year thereafter, and the taxable income so computed shall not be considered to be less than zero.

“d. For purposes of this subdivision, the term ‘net operating loss’ means, for any taxable year ending after December 31, 1974, the excess of the deductions allowed in computing the Alabama

income by this section over the gross income in Alabama. Such excess shall be computed with the modifications specified in paragraph e of this subdivision.

"e. The modifications referred to in this subdivision are as follows:

"1. No net operating loss deduction shall be allowed.

"2. No deduction shall be allowed under section 40-18-19 (relating to personal exemptions). No deduction in lieu of any such deduction shall be allowed.

"f. In determining the amount of any net operating loss carryback or carryover to any taxable year, the necessary computations involving any other taxable year shall be made under the law applicable to such other taxable year.

"g. In the case of a taxable year beginning in 1974 and ending in 1975:

"1. In lieu of the amount specified in paragraph d of this subdivision, the net operating loss for such year shall be that portion of the net operating loss for such year, computed without regard to this subparagraph, which the number of days in the loss year after December 31, 1974, bears to the total number of days in such year.

"2. For purposes of the second sentence of subparagraph 2 of paragraph e of this subdivision, the taxable income for such year shall be that portion of the net income for such year, computed without regard to this subparagraph, which the number of days in such year before January 1, 1975, bears to the total number of days in such year.

"(17) There shall be allowed resident taxpayers a deduction from the taxpayer's adjusted gross income for state income tax purposes of the total cost of installation for conversion from gas or electricity to wood as the primary energy source for heating their individual domestic homes for the taxable year during which such conversion was completed.

"(b) (1) In lieu of the deductions allowable to individual taxpayers, as provided in subdivisions (2), (3), (5), (6), (10), (12), (13) and (14) of subsection (a) of this section, for the taxable years beginning on and after January 1, 1966, at the election of the taxpayer, a deduction may be taken not to exceed 10 percent of the adjusted gross income or \$1,000.00, whichever is the lesser, from the adjusted gross income received from sources within the state of Alabama and, in addition to said deduction, a deduction for the amount of federal income tax paid or accrued within the taxable year; provided, that in the case of a nonresident taxpayer the amount of federal income tax apportioned to Alabama shall be

determined by the ratio that the amount of adjusted gross income received from sources within the state of Alabama bears to the amount of adjusted gross income received from sources within and without the state of Alabama.

“(2) The exercise of the election to take the deduction provided for herein is irrevocable for the taxable year for which made and cannot be changed after the time prescribed by law for filing the income tax return; and, if separate returns are filed by husband and wife and one spouse elects to claim the deduction allowed herein, the election to claim such deduction will be denied unless the other spouse also elects to claim the deduction allowed herein.

“(3) The term ‘adjusted gross income,’ as used in this subsection, shall mean the gross income as defined by section 40-18-14, less:

“a. The deductions allowed in this section which are attributable to a trade or business carried on by the taxpayer if such trade or business does not consist of the performance of services by the taxpayer as an employee;

“b. Travel expenses, including the entire amount expended for meals and lodging, while away from home in the pursuit of a trade or business;

“c. The deductions allowed by this section, other than expenses of travel, meals and lodging while away from home, which consist of expenses paid or incurred by the taxpayer in connection with the performance by him of services as an employee, under a reimbursement or other expense allowance arrangement with his employer;

“d. The deductions, other than those provided in paragraphs a, e and f, allowed by this section and which are attributable to property held for the production of rents or royalties;

“e. The deductions, other than those provided in paragraph a, for depreciation and depletion, allowed by subdivisions (8) and (9) of subsection (a) of this section to a life tenant of property or to an income beneficiary of property held in trust; and

“f. The deduction, other than those provided in paragraph a, allowed by section 40-18-8 as losses from the sale or exchange of property.

“(c) In the case of a nonresident individual, the deductions allowed in subdivisions (1), (4), (6), (7), (8), (9) and (11) of subsection (a) of this section shall be allowed only if and to the extent that they

are connected with income arising from a source within the state of Alabama, and a proper apportionment or allocation of the deductions with respect to sources of income within and without the state of Alabama shall be determined under rules and regulations prescribed by the department of revenue."

Section 2. This act shall become effective on January 1, 1980.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-619

H. 403—Carothers, Smith (C)

AN ACT

This Bill creates a Driver License Medical Advisory Board nominated by the Medical Association of the State of Alabama and appointed by the Director of Public Safety to advise the Director concerning the medical aspects of driver licensing. It also outlines the functions and responsibilities of the board; provides for the confidentiality of related reports and immunity from legal actions.

Be It Enacted by the Legislature of Alabama:

Section 1. For purposes of this Act:

(a) The term "Director" means the Director of Public Safety for the State of Alabama.

(b) The term "Department" means the State Department of Public Safety.

(c) The term "Board" means the Driver License Medical Advisory Board established under Section 2 of this Act.

Section 2. (a) There is hereby created within the State Department of Public Safety a Driver License Medical Advisory Board for the purposes of advising the Director concerning the medical aspects of driver licensure.

The Board shall consist of nine members appointed by the Director, from a slate of nominees submitted by the Medical Association of the State of Alabama. Each member of the Board shall be a physician licensed to practice medicine in this State.

The Board shall be appointed initially as follows: three members to serve two-year terms, three members to serve three-year terms, and three members to serve four-year terms; thereafter appointments shall be for four-year terms, and vacancies shall be filled by appointment for the unexpired portion of the term. The Director shall designate the Chairman of the Board annually.

Board members shall serve without compensation but shall be reimbursed for necessary travel expenses incurred in performing their duties as is provided state employees traveling in the service of the state. Such payments shall be made from funds appropriated to the Department.

The Board shall meet at least annually and may hold such special meetings as are necessary to fulfill its responsibilities described under Section 2 (b) of this Act. A majority of the Board shall constitute a quorum.

Section 2. (b) The Board shall have the following responsibilities: (1) advise the Director on medical criteria relating to the safe operation of motor vehicles; (2) recommend to the Director procedures and guidelines for licensing individuals with physical or mental impairment; (3) initiate the development of medically acceptable report forms; (4) direct research of medically impaired individuals; (5) recommend a training course for driver examiners in the medical aspects of licensure; (6) spearhead efforts to orient the general physician population as well as the public in the medical aspects of driver licensure; (7) assist in the development of regional Driver License Medical Advisory Boards to be constituted similarly to the Board established by this Act; and (8) evaluate individual problem cases that require more than one opinion or that cannot be screened out in light of guidelines established by the Board. The Board may formulate such advice from records and reports or may cause a physical examination and written report to be made by a physician of the applicant's choice, licensed to practice in this State, or by one or more members of the Board. The individual licensed driver or applicant may cause a written report to be forwarded to the Board by a physician of his choice licensed to practice in this State, and such report shall be given due consideration by the Board. The Board shall exercise its option of interviewing in person any driver or applicant whose ability to operate a motor vehicle safely cannot be ascertained through written reports or records.

Section 3. Reports or records, received or made by the Board or any of its members or by the Director's office, pursuant to this act for the purpose of assisting the Director in determining whether a person meets the medical, physical, or mental standards to be licensed as a driver are for the confidential use of the Board and the Director's office, and such reports or records shall not be divulged to any other person, Federal, State, or local government, or private entity, or used as evidence in any trial, except that such reports or records may be submitted in proceedings under the provisions of Title 32, Chapter 6, Section 16, 1975 Code of Alabama, as amended.

Section 4. The Director shall give fair consideration to any opinion, reports, records, or recommendations of the Board or of private physicians licensed to practice in this State and submitting same pursuant to this Act; however, all such opinions and reports shall be solely advisory and not binding on the Director.

Any person under review who refuses to admit to an examination or consent to provide information, or both, shall as a matter of law be considered unqualified to operate a motor vehicle until such time as the individual complies with the Board's requests and the Board can make its findings and recommendations to the Director.

Section 5. No civil or criminal action may be brought against the Board, any of its members, the Director or Director's office or its employees, or any physician licensed to practice in this State, for providing any reports, records, examinations, opinions, or recommendations pursuant to the Act. In addition, any other person acting in good faith and without negligence or malicious intent in making a report to the Director's office pursuant to this Act shall have the immunity from civil liability that might otherwise be incurred or imposed.

Section 6. Meetings of the Board in which reports received for the purpose of determining the medical condition of an applicant are considered as closed sessions, since those reports are confidential under Section 3 of this Act.

Section 7. A person whose driver's license has been cancelled, suspended, or revoked or whose application for a driver's license has been denied shall have the right of judicial appeal of such action, as provided under Title 32, Chapter 6, Section 16, 1975 Code of Alabama, as amended. No person shall be allowed to drive in violation of any cancellation, suspension, revocation, or denial of application while any such appeal is pending.

Section 8. This act shall not prohibit the Director from utilizing the Alabama Optometric Association, the Alabama Academy of Ophthalmology or any other group, association, or board for advice relating to the promulgation of vision standards for licensing drivers.

Section 9. All laws or parts of laws in conflict with this Act are hereby repealed.

Section 10. If any provision of this Act is held by a court to be invalid, such invalidity shall not affect the remaining provisions of this Act, and to this end the provisions of this Act are declared severable.

Section 11. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 5:00 P.M.

Act No. 79-620

H. 417—Bedsole, Harper (T)

AN ACT

To allow all local Boards of Education to expend reasonable sums for payment to employees for suggestions.

Be It Enacted by the Legislature of Alabama:

SECTION 1: All local Boards of Education, throughout the State, now existing or herein after established, are hereby authorized to pay employees for suggestions which result in a saving of funds for that particular Board of Education. Such expenditures are to be made from the general operating funds of the particular Board of Education awarding the payment.

SECTION 2: The expenditures authorized herein shall not be paid to members of the Board of Education nor to Administrative personnel whose normal job duties include providing suggestions for saving of Board funds.

SECTION 3: This Act is permissive only and any authority to give monies to employees for suggestions remains with the local County or City Boards of Education. The amount of payment shall be determined by the individual Boards, and shall be calculated in such manner as the individual Boards see fit.

SECTION 4: The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part that remains.

SECTION 5: All laws or parts of laws which conflict with this Act are hereby expressly repealed.

SECTION 6: This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 5:30 P.M.

Act No. 79-621

H. 451—Parker, McMillan

AN ACT

To amend Section 9-17-13, Code of Ala. 1975, so as to more clearly provide for the integration or pooling and for the unitization of other interests included in tracts of land with regard to oil and gas drilling units and oil and gas pools.

Be It Enacted by the Legislature of Alabama:

Section 1. That Section 9-17-13, Code of Ala. 1975, be, and the same is, hereby amended to read as follows:

“(a) When any mineral or other related interests deriving from two or more separately owned tracts of land are embraced within an established or a proposed drilling or production unit, or when there are separately owned interests in all or a part of an established or proposed drilling or production unit, or any combination of such, the persons owning such interests thereof may validly agree to integrate or pool such interests and to develop such interests and associated lands as a drilling or production unit. Where, however, such owners have not agreed to so integrate or pool such interests, the Board shall, for the prevention of waste or to avoid the drilling of unnecessary wells, require such persons owning such interests to do so and to develop their interests and the associated lands as a drilling unit or production unit.

“(b) The Board, in order to prevent waste and avoid the drilling of unnecessary wells, may permit or require the cycling of gas in any pool or portion thereof and is also authorized to permit or require the introduction of gas or other substance into an oil or gas reservoir for the purpose of repressuring such reservoir, maintaining pressure, or carrying on secondary recovery operations. The Board may require pooling or integration of all the interests in or associated with such tracts, when reasonably necessary in connection with cycling operations.

“(c) All orders requiring integration, pooling, cycling, repressuring, pressure maintenance, or secondary recovery operations shall be made after notice and hearing and shall upon terms and conditions that are just and reasonable and which will afford to the person owning each such interest associated with each tract the opportunity to recover or receive his just and equitable share of the oil and gas in the pool without unnecessary expense and will prevent or minimize reasonably avoidable drainage from each unit which is not equalized by counterdrainage. The portion of the production allocated to the person owning each such interest associated with each tract included in an integrated or pooled unit formed by an integration or pooling order shall, when produced, be

considered as if it had been produced from such tract by a well drilled thereon. In the event such integration or pooling is required by the Board, the operator designated by the Board to develop and operate the integrated or pooled unit shall have the right to charge against the interest of each other owner in the production from the wells drilled by such designated operator the actual expenditures required for such purpose, not in excess of what are reasonable, including a reasonable charge for supervision; and the operator shall have the right to receive the first production from such wells drilled by him thereon which otherwise would be delivered or paid to the other parties jointly interested in the drilling of the well so that the amount due by each of them for his share of the expense of drilling, equipping, and operating the well may be paid to the operator of the well out of production, with the value of production calculated at the market price in the field at the time such production is received by the operator or placed to his credit. In the event of any dispute relative to such cost, the Board shall determine the proper cost.

“(d) Should the owners of separate tracts or interests embraced within a drilling or production unit fail to agree upon the integration or pooling of the tracts or interests associated with such tracts and the drilling of a well on such unit, and should it be established that the Board is without authority to require integration or pooling as provided for in this section, then subject to all other applicable provisions of this article, the owner of the interest or interests associated with each tract embraced within such drilling or production unit may drill on tract; but the allowable production from such tract or interest shall be such proportion of the allowable production for the full drilling or production unit as the area of such separately owned tract associated with the separately owned interest, bears to the full drilling or production unit.

“(e) Agreements made in the interest of conservation of oil or gas, or both, or for the prevention of waste, between and among owners or operators, or both, owning separate interests in the same oil or gas pool, or in any area that appears from geological or other data to be underlain by a common accumulation of oil or gas or both, and agreements between and among such owners or operators, or both and royalty owners therein of the pool or area or any part thereof as a unit for establishing and carrying out a plan for the cooperative development and operation thereof, when such agreements are approved by the Board, are hereby authorized and

shall not be held or construed to violate any of the statutes of this state relating to trusts, monopolies, or contracts and combinations in restraint of trade."

Section 2. If any clause, sentence, paragraph, provision, part or section of this Act shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, provision, part, or section thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor or by its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-622

H. 452—Parker, McMillan

AN ACT

To amend Section 9-17-83, Subsections (3), (4), (5), and (7), Code of Ala. 1975, so as to more closely render said subsections to include other "interests" within "tracts" in unitization orders.

Be It Enacted by the Legislature of Alabama:

Section 1. That Section 9-17-83, Subsections (3), (4), (5), and (7) of Code of Ala. 1975, be, and the same is, hereby amended to read as follows:

"(3). An allocation among the separately owned interests derived from or associated with tracts in the unit area of all the oil or gas, or both, produced from the unit pool within the unit area, and not required in the conduct of such operation or unavoidably lost, such allocation to be based on the relative contribution which each such tract or interest is expected to make during the course of such operation, to the total production of oil or gas, or both, so allocated.

"(4). A provision for adjustment among the owners of the unit area (not including royalty owners, except as otherwise hereinafter provided) of their respective investment in wells, tanks, pumps, machinery, materials, equipment, and other things and services of value attributable to the unit operations. The amount to be charged unit operations for any such items shall be determined by the

owners of the unit area (not including royalty owners, except as otherwise hereinafter provided); provided, that, if said owners of the unit area are not able to agree upon the amount of such charges, or to agree upon the correctness thereof, the Board shall determine them after due notice and hearing thereon, upon the application of any interested party. The net amount charged against the owner of a separately owned tract or separately owned interest derived from or associated with a tract within the unit shall be considered expense of unit operation chargeable against such tract or interest. The adjustments provided for in this subdivision may be treated separately and handled by agreements separate from the unitization agreement.

“(5). A provision that the costs and expenses of unit operation, including investment, past and prospective, be charged to the separately owned tracts or interests in the same proportions that such tracts or interests share in unit production, as provided in subdivision (3) of this Section. The expenses chargeable to a tract or interest shall be paid by the person or persons not entitled to share in production free of operating costs, and who, in the absence of unit operation, would be responsible for the expense of developing and operating such tract or interest, and such person or person's interest in the separately owned tract or interest shall be primarily responsible therefor.

“(7). A provision that when the full amount of any charge made against a separately owned tract or interest is not paid when due by the person or persons primarily responsible therefor, as provided in subdivision (5) of this Section, then seven-eighths (7/8) of the oil and gas production allocated to such separately owned tract or interest may be appropriated by the unit operator and marketed and sold for the payment of such charge, together with interest at the rate of five percent (5%) per annum thereon. A one-eighth (1/8) part of the unit production allocated to each separately owned tract or interest shall in all events be regarded as royalty to be distributed to and among or the proceeds thereof paid to the royalty owners, free and clear of all unit expense and free and clear of any lien therefor. The owner of any overriding royalty, oil and gas payment, royalty in excess of one-eighth (1/8) of production, or other interests, who is not primarily responsible therefor shall, to the extent of such payment or deduction from his share, be subrogated to all the rights of the unit operator with respect to the interest or interests primarily responsible for such payment; provided, however, such right of subrogation shall not apply, inure to or exist for the benefit of the owner of any overriding royalty, oil and gas payment, royalty in excess of one-eighth (1/8) of production,

or other interest, who is not primarily responsible therefor, in any oil production unit from the Lower Cretaceous geological formation between depths of 10,500 feet and 11,500 feet subsea in which tertiary recovery methods are utilized. The owner of such overriding royalty, oil and gas payment, royalty in excess of one-eighth (1/8) of production, or other interest in any oil production unit from the Lower Cretaceous geological formation between depths of 10,500 feet and 11,500 feet subsea in which tertiary recovery methods are utilized shall bear his fair share of all capital and operating costs incurred by a unit operator from the first day of the month next succeeding the month during which such tertiary recovery methods are initiated and implemented in the production unit, and the owner of such interest, shall continue to bear his share of both capital and operating cost so long as such unit is producing oil or gas utilizing tertiary recovery methods. The term "tertiary recovery methods" as used herein shall include, but shall not be limited to, the maintenance or partial maintenance of reservoir pressures by any method recognized by the industry as a tertiary method of recovery and approved by the Board, recycling, injecting or flooding a pool, or pools, or parts thereof, with air, gas, water, hydrocarbons, carbon dioxide (CO²) or any other substance, or any combination or combinations thereof, the use of polymers, steam flooding or fire flooding, or any other tertiary method of producing hydrocarbons recognized by the industry and approved by the Board. Any surplus received by the operator from any such sale of production shall be credited to the person or persons from whom it was deducted in the proportion of their respective interest."

Section 2. If any clause, sentence, paragraph, provision, part, or section of this Act shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, provision, part, or section thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Relating to Baldwin County; to provide for the leasing of the oil, gas and mineral rights that are owned by the county on the right-of-way of the Baldwin County road system; and to provide for the disposition of the funds accruing from such leases for public launching ramps.

Be It Enacted by the Legislature of Alabama:

Section 1. On roads where Baldwin County owns the oil, gas and mineral rights, the Baldwin County Commission is authorized to lease the mineral rights on the right-of-way of the county roads on a competitive bid basis in the same manner as provided by the competitive bid laws applying to county purchases.

Section 2. Any funds accruing from the leasing of the mineral rights of the county road system as provided in this Act shall be used to build and maintain public boat launching ramps in the Mobile North River Delta Region of Baldwin County from the Bay Bridge North to the Baldwin County line.

After one (1) such ramp is built such funds may be used to construct, repair, or maintain public launching ramps in any part of Baldwin County, at the discretion of the county commission.

Section 3. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-624

H. 958—Whatley, Turnham

AN ACT

Relating to Lee County; providing a salary increase for the tax assessor.

Be It Enacted by the Legislature of Alabama:

Section 1. The tax assessor of Lee County shall receive a salary increase in the amount of \$5,000 per annum to be paid in twelve equal monthly installments from the same funds and in the same manner as his salary is currently paid. Such salary increase shall be in addition to any salary currently provided by law.

Section 2. The provisions of this act shall be effective October 1, 1979.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-625

H. 103—Johnson (R.G.), Dial,
Shoemaker, Pegues, Blake,
Owens, Whatley

AN ACT

To amend Section 6-5-335, Code of Alabama 1975, relating to the exemption from civil liability of members of organized volunteer fire departments who make efforts to preserve and protect any building and property from fire, so as to exempt such volunteers as well as members of organized rescue squads from civil liability whose acts, in the line of their duties, unintentionally cause injury to fellow volunteers or owners of said property.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 6-5-335, Code of Alabama 1975, is hereby amended to read as follows:

“§ 6-5-335. When any member of any organized rescue squad or volunteer nonprofit fire department, gratuitously and in good faith, enters any building, house or structure which is burning or endangered by fire and makes efforts to preserve and protect said property and any other property contained therein or located on the premises thereof, such members shall not be liable for any civil damages for such entering or as result of any acts or omissions in rendering such efforts; nor shall such members be liable for any civil damages in rendering such efforts for their acts or omissions causing injuries to fellow volunteers or to owners of said property; provided, however, that this section shall not apply to civil damages for wanton misconduct.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-626

H. 235—McMillan, McCorquodale,
Biddle, Owens

AN ACT

Relating to illegal nighttime deer hunting; declaring motor vehicles, guns,

rifles, ammunition and hunting equipment used in illegal nighttime deer hunting to be contraband; and providing for the condemnation and sale thereof for the benefit of the state game and fish fund.

Be It Enacted by the Legislature of Alabama:

Section 1. Any motor vehicle, or any gun, rifle, ammunition or other hunting equipment which has been or is used for illegal nighttime deer hunting shall be contraband, and, in the discretion of the circuit court may be forfeited to the State of Alabama, as hereinafter provided.

Section 2. The sheriff or any other person authorized to enforce the game and fish laws of this state who apprehends any person hunting deer in the nighttime, or who finds any vehicle which is being used or has been used in such illegal nighttime hunting shall seize such vehicle and any gun, rifle, ammunition or other deer hunting equipment found in the possession of or on the person of such person or in or on such vehicle and shall report such seizure and the facts connected therewith to the district attorney or other prosecuting official in the judicial court. The report shall contain a full description of the vehicle or other equipment seized and detained, the name of the person in whose possession it was found, the name of the person making claim to the same, or any interest therein, if the name is known or can be ascertained, the date of seizure, and a statement of the circumstances surrounding the seizing of the property.

Section 3. The district attorney or other prosecuting officer of the judicial circuit upon receiving such report shall at once institute, or cause to be instituted, condemnation proceedings in the circuit court, in the same manner that he is directed by law to institute proceedings for the condemnation and forfeiture of automobiles and other vehicles used in the illegal transportation of alcoholic beverages. Except as herein otherwise provided, the procedures for the condemnation, forfeiture and sale of motor vehicles and hunting equipment under this act used in the illegal nighttime hunting of deer shall be governed in all things by and shall conform to the law relative to proceedings for the condemnation, forfeiture, and sale of vehicles used in the illegal transportation of alcoholic beverages. Without limiting the generality of the foregoing sentence the provisions of Code of Alabama 1975, Sections 28-4-286 and 28-4-287, shall apply to and govern all such proceedings.

Section 4. The proceeds of the sale of any property condemned and forfeited to the state under authority of this Act, after payment of all expenses in the cause, including the cost of seizure and a keeping of the property pending the proceedings shall

be paid into the state treasury to the credit of the state game and fish fund.

Section 5. All laws or parts of laws which conflict with this Act are repealed.

Section 6. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 7. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-627

H. 266—Cates, Gafford, Edwards

AN ACT

To amend Section 5-3-1, Code of Alabama 1975, relating to state banks, so as further to regulate such banks by requiring that certain annual audits be made and be available on bank premises to the superintendent of banks; and to authorize the superintendent of banks to promulgate rules and regulations establishing minimum standards for such audits and reports.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 5-3-1, Code of Alabama 1975, is hereby amended to read as follows:

“Section 5-3-1. Every bank carrying on a banking business in the state, other than national banks, shall be subject to the supervision and inspection of the superintendent of banks and the regulations and supervision thereof. The superintendent of banks shall, either personally or by competent examiner appointed by him, visit and examine every corporation doing a banking business in and under the laws of the state of Alabama at least twice in each year; provided however, that only one such annual examination shall be required of banking institutions, deposits in which are insured by the federal deposit insurance corporation or its successor, if any. On every such examination, inquiry shall be made as to the conditions and resources of the corporation, the mode of conducting and managing the affairs of the bank, the action of its directors, the investment of the funds of the bank, the safety and prudence of the management of the bank, whether the requirements of its charter and of law have been complied with in

the administration of the affairs of the bank and as to such other matters as the superintendent of banks may prescribe. In addition, the superintendent of banks shall in like manner examine or cause to be examined the affairs of every corporation doing a banking business whenever, in the judgment of the superintendent, the management and condition of the bank is such as to render an examination of its affairs necessary or expedient, or whenever, in the opinion of the superintendent, the interest of the public demands an examination.

“The board of directors of each state bank shall at least once in each calendar year have an audit made of its books and affairs, including any accounts held in a fiduciary capacity, by independent auditors approved by the superintendent of banks. These may be separate audits. ‘Independent auditors’ shall include the audit staff of a correspondent bank or the audit staff of a bank holding company, or auditors or accountants who are not employees of the bank. The superintendent of banks shall by regulation establish minimum standards for audits and reports, which shall include such matters as he shall require. To assist in promulgating minimum standards for audits and reports, the Superintendent shall appoint an advisory committee of no less than six members. Membership of the committee shall consist of auditors, as qualified in this act, who regularly perform audits in banks chartered under the laws of the State of Alabama. A majority of the committee shall be comprised of individuals who are Certified Internal Auditors, Chartered Bank Auditors, or Certified Public Accountants. The committee shall meet at the call of the Superintendent. The advice of this committee shall not be binding on the Superintendent and the members shall serve without compensation. A report of the audit shall be signed by the person making it, and such signed copy shall be submitted to the board of directors and retained in the bank. If any bank has a system of internal audit approved by the superintendent of banks, no such independent audit shall be required, and in lieu thereof the auditor or comptroller of the bank shall submit to its board of directors an annual summary of the same matters, which shall be retained in the bank. Such report shall also set forth the degree of compliance with the approved audit system and shall express the opinion of the auditor or comptroller as to the adequacy of the internal controls.”

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-628

H. 263—Edwards, Cates, Gafford

AN ACT

To amend Section 5-1-9, Code of Alabama 1975, so as to provide that call reports shall be transmitted by each state bank to the superintendent of banks within thirty days after the receipt of a request therefor from him; to provide further that any state bank failing to transmit such call report within the thirty-day period shall pay a penalty to the state banking department of one hundred dollars per day.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 5-1-9, Code of Alabama 1975, is hereby amended to read as follows:

“Section 5-1-9. Each report required by section 5-1-7 shall exhibit in detail and under appropriate head the resources and liabilities of each bank at the close of business on any past day specified by the superintendent of banks, not more than five days prior to the issue of the superintendent’s call, which day for report shall be uniform throughout the state and shall be transmitted by the bank to the superintendent within thirty days after the receipt of a request or requisition therefor from him, and the same shall be published once by the bank in a newspaper in the city or town in which the bank is located, at the expense of said bank. If no newspaper is published in the town where the bank is located, publication must be made in a newspaper published in the nearest city. Proof of such publication shall be furnished by the bank to the superintendent in such manner as may be required by him, including the clippings of the report as published in the newspaper.

“The superintendent shall prescribe to the bank the form for the published report made by the bank, which form shall contain such items as are deemed necessary by the superintendent to inform the public as to the financial condition of the bank, and such form shall be uniform throughout the state. The superintendent shall see that each bank has published its report in accordance with the form prescribed and shall check such published report, using the newspaper clipping furnished him by the bank, with the sworn report of the bank filed with the superintendent. Each bank which fails to make and transmit any report required under this section shall be subject to a penalty of one hundred dollars for each day after such thirty-day period herein provided that it delays to make and transmit its report. All such penalties shall be paid into the special fund set up by the state treasurer pursuant to Section 5-1-5, Code of Alabama 1975.

"If the report is not published by the bank, the superintendent shall, at the expense of the bank, publish the report."

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-629

H. 292—Manley, Waggoner, Gafford,
Hines, Cates, Barton,
Smith (C)

AN ACT

To amend section 12-17-183 of the Code of Alabama 1975, relating to residency requirements of district attorneys in the state, so as to regulate further the residency requirements of the district attorneys.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 12-17-183 of the Code of Alabama 1975 is hereby amended to read as follows:

"§ 12-17-183. Every district attorney must have resided in the circuit for which he is elected or appointed for at least 12 months preceding his election or appointment and must reside in such circuit during his continuance in office. If he shall fail so to do, he shall vacate his office. Upon such failure, it shall be the duty of the judge of the circuit to notify the governor, and the governor shall fill the vacancy."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-630

H. 304—Ward, Laird, Gafford,
Grimsley, Minus, Venable,
Smith (C), Hines, Adams (C),
Crow, Penry, Zoghby

AN ACT

Relating to electors; to authorize incorporated municipalities to enter into

contracts with any county and its boards of registrars to conduct a program of identification of registered electors residing within the corporate limits of the municipality; to provide that any county and its boards of registrars may conduct an identification program of electors residing in the municipality; to authorize incorporated municipalities to expend public funds for such purposes herein set forth.

Be It Enacted by the Legislature of Alabama:

Section 1. The incorporated municipalities of this state are hereby authorized to enter into contracts with the counties of this state are hereby authorized to enter into contracts with the counties of this state and their boards of registrars to conduct an indentification program of electors eligible to vote in municipal elections. The said municipalities are authorized to expend public funds in payment of services rendered by such counties and boards of registrars in such indentification program. Such contracts shall be authorized by appropriate resolution of the governing body of the municipality. It shall be the duty of the various boards of registrars to conduct an identification program of electors residing in the municipality and eligible to vote in municipal elections upon adoption of an appropriate resolution of the governing body of the municipality and upon approval of a contract between the municipality and the county and its board of registrars. The county and its boards of registrars shall not unreasonably withhold approval of a contract with any municipality for such purposes nor shall such county or its boards unreasonably delay acceptance of such contract; it being the intention of the legislature that the said county and its boards shall cooperate fully with the municipalities which adopt the said appropriate resolution and attempt in good faith to contract with such municipality. Any such program contracted for shall be completed at least 180 days prior to any municipal election held within a municipality to elect officers of the municipality. It is the intention of the legislature that any such contracts, as herein authorized, be detailed and sufficiently complete so that any elector may look to it for all requirements of the program of indentification. It is likewise the intention of the legislature that after the identification program is completed that the list of the electors established may be used as the official poll list for the immediately ensuing municipal election held within a municipality to elect officers of the municipality and the mayor of the municipality is authorized to certify such poll list as the official poll list of the municipality.

Section 2. All monies paid as consideration for such contracts shall be deposited in the general fund of the county.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-631

H. 727—Gilmer

AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the municipality of Sulligent, Lamar County, Alabama.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the municipality of Sulligent in Lamar County are hereby altered, rearranged and extended so as to include within the corporate limits of said municipality, in addition to the lands now included, all of the following territory, to-wit:

The SE $\frac{1}{4}$ of the NE $\frac{1}{4}$, Section 6, Township 14 South, Range 15 West, being 40 acres, more or less.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-632

H. 772—Warren

AN ACT

To further amend Section 34-5-15 of the Code of Alabama 1975, as amended, relating to applicability of the state barber's law, so as to provide further for such applicability.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 34-5-15 of the Code of Alabama 1975, as amended, is hereby amended further to read as follows:

“§ 34-5-15. The provisions of this chapter shall not apply to Clay, Talladega, Wilcox, Baldwin, Lowndes, Sumter, Lawrence, Marengo, Butler, Russell or Jefferson counties.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-633

H. 821—Bowling

AN ACT

To amend Section 1 of Act No. 1247, H. 1642, Regular Session 1971 (Acts 1971, p. 2147), relating to the issuance of pistol permits in Cullman County, so as to increase the fee for said permits.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 1247, H. 1642, Regular Session 1971 (Acts 1971, p. 2147), is hereby amended to read as follows:

“Section 1. Relating to Cullman County; the fee for issuance of a permit to carry a pistol concealed on or about the person or in a vehicle as provided in Section 13-6-55, Code of Alabama 1975, shall be ten dollars (\$10.00), which shall be collected by the sheriff.”

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-634

H. 886—Wyatt

AN ACT

Relating to Montgomery County; providing for authority to increase the compensation of all appointed election officers for each election; to provide for additional compensation to be paid election officials designated as the chief inspector, inspector and chief clerk for each election held based upon the number of voting machines; and to provide that this act shall be superseded by any subsequent statewide act increasing the compensation of election officials.

Be It Enacted by the Legislature of Alabama:

Section 1. The Montgomery County Commission shall have the authority to increase the compensation of all election officers appointed to hold elections in said county up to \$20 per day.

Section 2. In addition to all other compensation paid by law to election officials, those officials designated as the chief inspector, inspector and chief clerk shall henceforth receive the following amount for each election held:

Chief Inspector	\$1.50 per machine
Inspector	\$1.00 per machine
Chief Clerk	\$.50 per machine

Section 3. The provisions of this act shall be superseded by any subsequent statewide act increasing the compensation of election officials.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this act are hereby repealed.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-635

H. 854—Roberts, Cooley, Letson, Patton

AN ACT

To amend Sections 1 and 2 of Act No. 727, H. 1051, Regular Session 1978 (Acts of 1978, p. 1052), entitled, "An Act Relating to Morgan County; to further provide for the salaries of employees of the sheriff's department and to provide for additional employees," so as to further provide for the salaries of employees of the sheriff's department and to provide for additional employees.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 1 and 2 of Act No. 727, H. 1051, Regular Session 1978 (Acts of 1978, p. 1052), entitled, "An Act Relating to Morgan County; to further provide for the salaries of employees of the sheriff's department and to provide for additional employees," is hereby amended to read as follows:

"Section 1. The Morgan County sheriff's department shall be comprised of at least twenty-seven (27) employees whose titles and compensation shall be in accordance with the following table of monthly salaries:

Morgan County Sheriff's Department Pay Schedule

Title	No. of Employees Authorized	Starting Pay	After 6 mo.	After 1 yr.	After 2 yrs.	After 3 yrs.	After 4 yrs.
Chief Deputy	1	\$1000	----	\$1050	\$1100	\$1150	\$1200
Investigator	2	\$ 775	----	\$ 825	\$ 875	\$ 925	\$ 975
Sergeant	3	\$ 800	----	\$ 850	\$ 900	\$ 950	\$1000
Deputies	15	\$ 700	\$ 738	\$ 775	\$ 825	\$ 875	\$ 925
Jailer	4	\$ 525	\$ 550	\$ 575	\$ 615	\$ 660	\$ 700
Matron	2	\$ 525	\$ 550	\$ 575	\$ 615	\$ 660	\$ 700

The number of employees authorized by this Act shall be the minimum number of employees and shall not constitute a limit to the employees hired by the sheriff with the approval of the Morgan County Commission.

The salaries provided for herein shall be in lieu of all other salaries heretofore provided for by law and shall be payable from the general fund of Morgan County.

"Section 2. The sheriff of Morgan County is hereby authorized to hire such additional employees as may be necessary to bring the minimum employment of the sheriff's office into compliance with Section 1 of this Act, and to hire additional employees, with the approval of the Morgan County Commission, from time to time as he may deem necessary."

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Relating to Jackson County, Alabama; providing for the payment of an expense allowance of not more than two hundred dollars (\$200.00) per month to the chairman of the Jackson County commission and to each member of said commission and repealing any laws in conflict therewith.

Be It Enacted by the Legislature of Alabama:

Section 1. The chairman of the Jackson County commission and each member of said commission shall be paid an expense allowance of not more than two hundred dollars (\$200.00) per month, payable out of the general fund of the county, and which shall be in addition to all other compensation now provided by law for said chairman and members. Such expense allowance shall be payable to the chairman and each member of the Jackson County commission at the rate of fifty dollars (\$50.00) each for the attendance of any regular or special meeting of the commission but neither the chairman nor any member shall be entitled to such expense allowance for more than four (4) meetings per month.

Section 2. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

Section 3. Should any part of this act be declared invalid, then such declaration of invalidity shall not affect the portions remaining.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-637

H. 885—Wyatt

AN ACT

Relating to Montgomery County; to authorize, provide for the licensing of, and to regulate the operation of and hunting on privately owned hunting preserves stocked by artificially propagated or "pen-raised" upland birds; to prescribe the fees for such licenses; to provide for their collection and distribution; to provide that the licensee shall be an agent vendor of hunting licenses; and to prescribe penalties for violation of this Act.

Be It Enacted by the Legislature of Alabama:

Section 1. Any person, firm, or corporation desiring to operate a hunting or shooting preserve commercially in Montgomery County on which artificially propagated birds may be hunted, taken, captured, killed, harvested or otherwise recovered,

may do so upon obtaining a hunting preserve license and complying with the provisions of this Act and all rules and regulations promulgated by the commissioner of conservation and natural resources governing the operation of hunting preserves.

Section 2. Each hunting preserve shall contain a minimum of 100 acres in one tract of leased or owned land, including water area, if any, and shall be restricted to not more than 1,000 contiguous acres including water, if any. The exterior boundaries of each hunting preserve shall be bordered by a single strand of wire or fences, except where rivers, creeks, roads, or other clearly defined demarcations or delineations form the boundary or a part thereof. Signs shall be erected at intervals of not less than 330 feet around the perimeter of the tract. At the top of each sign shall appear in letters not less than two inches high the words, "LICENSED HUNTING PRESERVE," and such other words as the commissioner of conservation may prescribe. No hunting preserve shall be located within one mile of any other such preserve or within one mile of any management area or refuge existing under state or federal law or regulations at the time of the establishment of such hunting preserve. No license shall be issued for any hunting preserve on which the shooting of turkeys is authorized.

Section 3. Game which may be hunted on a preserve licensed under this Act shall be artificially propagated or "pen-raised" bob-white quail, pheasants, chucker partridge, and such other species of fowl as the commissioner of conservation and natural resources shall designate. A minimum stock of at least 1,000 bob-white quail, if bob-white quail are to be hunted on the preserve, or a minimum stock of 200 of each of the other species of birds, listed above, to be hunted on a licensed preserve shall be released on the licensed hunting area during each hunting period.

Section 4. The privilege license or permit fee for operating a hunting preserve shall be \$25 per year for the first 100 acres of hunting preserve plus \$5 per year for each additional 100 acres or part thereof. Any person who desires to operate such a hunting preserve shall first file a request with a local state game warden, or with the state department of conservation and natural resources, to have the tract which he proposes to use as a hunting preserve inspected, and if it meets the requirements of this Act and the rules and regulations of the department of conservation and natural resources he shall have a permit issued to him to procure a license to operate such hunting preserve. The applicant shall be advised of any discrepancies in writing for remedial action and a date shall be set for reinspection. Upon presentation, to the judge of probate of

Montgomery County of a permit from the department of conservation and natural resources, dated not more than thirty days prior to its presentation, accompanied by the proper license fee prescribed in this section, and an issuance fee of fifty cents, the judge of probate shall issue a privilege license to operate a hunting preserve to the applicant. Privilege licenses to operate hunting preserves shall be issued on forms prescribed by the commissioner of conservation and furnished by him to the judge of probate. All fees collected by the judge of probate for issuing hunting preserve licenses shall be remitted at the same time and in the same manner that hunting and fishing license fees are remitted and shall be paid into the game and fish fund of the state department of conservation and natural resources.

Section 5. The holder of a license issued pursuant to this Act, his guest, and patrons may hunt, take, capture, kill, harvest or otherwise recover during the year no more than 80 per cent of the total number of each species of birds released on the preserve during such year. Since said bob-white are artificially propagated or "pen-raised quail" and may otherwise be commercially sold under the provisions of Sections 9-11-340 through 9-11-351 of the Code of Alabama 1975, without restriction as to daily limit or any hunting season applicable to wild quail, there shall be no daily commercial limit as to the number of released "pen-raised quail" commercially taken or recovered by patrons under the provisions of this Act and the period during which each species of "pen-raised birds" may be hunted, taken, captured, killed, or otherwise recovered on such preserve shall begin on October 1 each year and extend through March 31 of the following calendar year.

Section 6. Bob-white quail shall be tagged with a self-sealing tag prior to being released on the preserve. The operators of hunting preserves shall cooperate in other requests which the commissioner of conservation and natural resources might make for scientific investigations. The Alabama department of conservation and natural resources shall specify tags which hunting preserve operators shall use, the tags to be numbered consecutively, dated by year of issuance, and carry the operator's license number.

Section 7. Each hunting preserve operator shall maintain a register and record therein the names, addresses, hunting license numbers, the date on which each hunted, and the amount and species of game taken by each hunter. An accurate record by species shall also be maintained of the total number of birds raised on the preserve or purchased, and the number of each species released thereon each year. These records shall be open to

inspection by any duly authorized representative of the state department of conservation and natural resources at any reasonable time.

Section 8. Alabama hunting licenses shall be required of all persons hunting on licensed hunting preserves. Alabama residents shall be licensed under the regularly established game laws. Each non-resident hunting on a licensed preserve shall be required to possess a regular non-resident annual hunting license or a non-resident trip hunting license. To better serve the public and in order that the state will not lose revenue from the loss of sale of licenses to out-of-state visitors arriving on weekends, each hunting preserve operator licensed hereunder shall be an agent vendor of all out-of-state and resident hunting licenses with any issuance fees collected therefor to be remitted to the judge of probate of Montgomery County.

Section 9. Duly authorized agents of the state department of conservation and natural resources, game wardens, and other law enforcement officers duly authorized to enforce game and fish laws shall have the authority to enforce all game and fish laws and regulations on such preserves; and for such purposes are authorized to enter and inspect licensed hunting preserves.

Section 10. Any person, firm, or corporation who is found guilty of operating a licensed hunting preserve in violation of any provision of this Act, upon conviction, shall have his hunting preserve license revoked forthwith.

Section 11. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 12. All laws or parts of laws which conflict with this Act are repealed.

Section 13. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

To provide that the Montgomery County Commission may grant certain cost of living increases to retired members of the Montgomery County retirement system and to authorize and empower said commission to make necessary contributions from the county general fund to effect such increases.

Be It Enacted by the Legislature of Alabama:

Section 1. The Montgomery County Commission may hereafter grant cost of living increases in retirement allowance benefits for retired members of the Montgomery County Retirement System established under the authority of Act No. 833, H. 1100 of the Legislature of Alabama of 1969 (Acts 1969, p. 1522), as amended, at the same times and in the same amounts or percentages as such increases may be granted from time to time for active county employees. Said commission is hereby authorized and empowered to make such contributions to said system from the county general fund as shall be necessary to effect such cost of living increases for retired county employees as they may be granted pursuant to this act.

Section 2. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-639

H. 890—Patton

AN ACT

Relating to Morgan County; to amend Act No. 806, H. 1228, Regular Session 1971, (Acts 1971, p. 1561), entitled "An Act Relating to Morgan County; fixing the fee for issuance of pistol permits by the Sheriff and providing for distribution and use of such fees," so as to provide further for such fees.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 806, H. 1228, Regular Session 1971, (Acts 1971, p. 1561), is hereby amended to read as follows:

"Section 1. In Morgan County, the fee for issuance of a permit to carry a pistol in a vehicle or concealed on or about the person as

provided in Section 13-6-155, Code of Alabama 1975, shall be Ten Dollars (\$10.00) and shall be collected by the Sheriff prior to the issuance of said permit."

Section 2. Section 2 of said act is hereby amended to read as follows:

"Section 2. Of each such fee so collected, \$3.00 shall be deposited in the General Fund of the county, \$2.00 shall be deposited in the Contingent Fund of said county, and \$5.00 shall be deposited into a separate fund entitled 'Sheriff's Department Fund' to be used at the discretion of the Sheriff in addition to other monies allocated for the operation and maintenance of the Sheriff's department. Notwithstanding the provisions of this act, said Sheriff's Fund shall in no way reduce the existing or future allocations for the operation and maintenance of the department."

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-640

H. 925—Warren

AN ACT

Relating to Monroe County; to amend Act No. 1823, H. 2473, 1971 Regular Session (Acts of 1971, p. 2991), so as to increase the coroner expense account.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 1823, H. 2473, 1971 Regular Session (Acts of 1971, p. 2991), is hereby amended to read as follows:

"Section 1. The coroner of Monroe County is to be paid an expense account of \$150.00 per month. This expense account is in lieu of all fees which he now receives."

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 5:00 P.M.

Act No. 79-641

H. 939—Cobb

AN ACT

Relating to Marion County; providing for an expense allowance for each member of the county commission.

Be It Enacted by the Legislature of Alabama:

Section 1. The members of the Marion County Commission shall each receive an expense allowance of \$200 monthly to be paid out of the road and bridge fund of the county. Such expense allowance shall be in addition to any and all other salary, compensation and expense allowances now provided by law for the members of the Marion County Commission.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-642

H. 940—Cobb

AN ACT

Relating to Marion County; to provide clerical assistance for the tax assessor and tax collector in said county.

Be It Enacted by the Legislature of Alabama:

Section 1. The county commission of Marion County shall pay from the county general fund the salaries of one full time clerk for the office of the tax assessor and one full time clerk for the office of the tax collector of said county. The salaries of such clerks shall be fixed at not less than \$550.00 per month each.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-643

H. 962—Sasser, Williams

AN ACT

To provide further for the election of the chairman and members of the Dale County Commission so that said chairman shall be elected at large and said commissioners shall be elected from their respective districts and providing that this Act shall become effective only if approved at a referendum election in Dale County.

Be It Enacted by the Legislature of Alabama:

Section 1. At the general election for state and county officers to be held in 1980 and every four years thereafter, there shall be elected by the qualified electors of Dale County, a chairman of the Dale County Commission, who shall be a qualified elector and resident of said county. At the same election, a commissioner shall be elected for district number 2 and district number 4 by the qualified electors in each district and the commissioners so elected shall be residents and qualified electors of their respective districts. At the general election to be held in 1982, and every four years thereafter, the districts numbered 1 and 3 shall likewise elect their respective commissioners who shall be residents and qualified electors of their respective districts.

Section 2. This Act is supplemental and shall be construed in *pari materia* with Act No. 1955, H. 1827 approved September 20, 1971 (Acts 1971, p. 3174) and all other laws relating to the Dale County Commission. However, all laws or parts of laws in conflict herewith are hereby repealed.

Section 3. The provisions of this act shall become operative only if approved by a majority of the electors of Dale County, voting in a referendum to be held on the same day on which the 1979 election on proposed amendments to the state constitution is held if such election is held within 120 days of adjournment date of the 1979 Regular Session; if not, then, the judge of probate shall call a special election for such purpose on or before December 1, 1979. The county governing body of Dale County shall order and provide for the holding of the referendum on such date. On the ballots to be used at the election the question shall be stated substantially as follows: "Shall the provisions of Act No. _____ of the 1979 Regular Session of the Legislature, approved the _____ day of _____, 1979, which provides for electing the members of the Dale County Commission from their respective districts rather than at large be adopted? Yes (), No ()." If a majority of the votes cast in the election are "Yes," then the provisions of this Act shall become operative immediately. If the majority are "No", this act shall have no further effect. The results of the election shall be certified by the

probate judge to the Secretary of State, who shall make a permanent record thereof.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-644

H. 963—Sasser, Williams

AN ACT

Relating to Dale County; to provide an additional expense allowance for the chairman and members of the county commission.

Be It Enacted by the Legislature of Alabama:

Section 1. The chairman and the members of the Dale County Commission shall each be entitled to an expense allowance in the amount of two hundred dollars (\$200.00) per month which shall be paid out of the county general fund and shall be in addition to any and all other salary, compensation and expense allowances now provided for by law.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-645

H. 965—Ray

AN ACT

To alter, rearrange and extend the boundary lines of the City of Troy, Alabama, so as to include additional land within the corporate limits.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the City of Troy, Alabama, are hereby altered, rearranged, and extended so as to include within the corporate limits of the City of Troy the following described lands:

The West half of NE quarter, the East half of the NW quarter, the SW quarter of the NW quarter, the West half of the SW quarter, Sec. 12; the SE quarter of SE quarter, Sec. 11; the West half of the

NW quarter, the West half of SW quarter, Sec. 13; the East half of NE quarter and East half of the SE quarter, the NW quarter of NE quarter, Sec. 14; the NE quarter of the NE quarter, Sec. 23; the NW quarter of the NW quarter, Sec. 24; all in Township 9 North, Range 20 East, Pike County, Alabama, and containing 760 acres, more or less.

Section 2. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-646

H. 966—Warren

AN ACT

Relating to Conecuh County; to provide for an increase in the pay of members of the board of equalization.

Be It Enacted by the Legislature of Alabama:

Section 1. In Conecuh County, the members of the board of equalization shall be entitled to receive additional compensation of \$10.00 per day to be paid out of the general fund of the county treasury. Said amount shall be in addition to any and all other amounts provided for by law and shall be paid only for those days when said board is authorized to meet and conduct business.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-647

H. 967—Warren

AN ACT

Relating to Conecuh County; to provide an additional expense allowance for the

tax collector of such county for clerk hire.

Be It Enacted by the Legislature of Alabama:

Section 1. The tax collector of Conecuh County shall be entitled to receive an additional expense allowance of \$300 per month payable out of the county general fund for the months of October, November, and December of each year for the hiring of clerical assistance. Such allowance shall be in addition to any and all other salary, compensation or allowances now received by said tax collector.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a Law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-648

H. 968—Warren

AN ACT

Relating to Conecuh County; to provide an additional clerk-hire allowance for the tax assessor.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to any and all other allowances provided for by law the tax assessor of Conecuh County shall be entitled to receive a clerk-hire allowance in the amount of \$2610.00 per year which shall be paid in equal monthly payments from such county funds as the county governing body may designate.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-649

H. 969—Johnson (R.G.)

AN ACT

To authorize the Coosa County Commission to provide protection against forest fires within the county and to assess the whole or a part of the cost thereof, within a

prescribed limit, against forest lands in the county; and to prescribe the procedure for levying and collecting such assessments.

Be It Enacted by the Legislature of Alabama:

Section 1. The county commission of Coosa County is authorized, when the need exists, to provide protection against forest fires in Coosa County by participating in the Alabama Forestry Commission's fire protection program in the manner hereinafter specified.

Section 2. (a) After the Coosa County Commission has determined that such a need does exist in Coosa County, the county commission may, in the manner hereinafter specified, provide for a financial charge or tax to be paid by the owners of forest lands located in Coosa County for the use of the land for timber growing purposes amounting to the whole or any part of the cost of such fire protection program, but not in excess of ten cents per acre, provided such financial charge or tax is not greater than the benefit accruing to such forest lands due to the availability of such fire protection.

(b) "Forest lands" as used in this act, shall mean any land which supports a forest growth, or which under prevailing natural and economic conditions may be expected to support such a growth in the future, or which is being used or reserved for any forest purpose. "Forest lands" as used in this act, shall not include any lands primarily used for residential purposes nor shall it include any publicly owned lands.

Section 3. The need for such a financial charge or tax to provide forest fire protection within the county shall be determined by the county commission after a public hearing is held thereon. Notice of such public hearing shall be given by the county commission for a period of two consecutive weeks by advertisement in a newspaper of general circulation in Coosa County. Such advertisement must indicate the date, time, and place of the hearing, the manner proposed to finance such fire protection program, and the part of the cost of such program that is proposed to be paid by the owners of forest lands. Any person owning forest land in Coosa County may appear in person or by attorney at such time and place and make defense against such financial charge or tax or the amount thereof. After such hearing the county commission shall determine whether or not a need exists for such a charge or tax; and if a need is found to exist for such financial charge or tax, the county commission shall determine the amount of such financial charge or tax and enter on the minutes of the county commission an order fixing such financial charge or tax.

Section 4. Any such financial charge or tax fixed as provided

in the above section shall be payable at the same time and in the same manner as county taxes and the owners of the forest lands, as herein defined, shall make report of same to the tax assessor of Coosa County at the time fixed by law for making return of the property of such property owner. Financial charges or taxes levied shall constitute a lien on the property against which they are charged or taxed in case of default in the payment of such financial charge or tax the land may be sold in the same manner and under the same conditions that lands are sold for the satisfaction of liens for county ad valorem taxes and redemption from such sale may be effected in the same manner as is provided by law for redemption where land is sold for non payment of ad valorem taxes.

Section 5. The county commission of Coosa County is authorized to appoint agents and delegate authority to individuals to search out forest lands in Coosa County, determine the area and owners thereof, and report same to the Tax Assessor of Coosa County who shall be authorized, after notice by certified mail to such owners, and hearing before the county commission if so requested by such owners, to place said financial charge or tax against said forest lands as may be determined by the report of such agents or the determination of said county commission.

Section 6. All monies accruing to Coosa County shall be placed in the general fund of the county and shall only be spent by the county commission in participating in the Alabama Forestry Commission's forest fire protection program in Coosa County.

Section 7. The county commission of Coosa County is authorized to remove such financial charge or tax after said county commission has determined that the financial charge or tax is no longer needed. The county commission shall hold public hearings to determine whether or not the financial charge or tax is still needed. Procedures for such public hearing shall be the same as those in Section 3 of this act.

Section 8. All laws or parts of laws which conflict with this act are hereby repealed.

Section 9. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 10. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-650

H. 970—Johnson (R.G.)

AN ACT

Relating to Coosa County; to amend Act No. 864, H. 1099, 1978 Regular Session (Acts 1978, p. 1290), providing for the reidentification of registered voters in said county, so as to increase the salary of the board of registrars.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 4 of Act No. 864, H. 1099, 1978 Regular Session (Acts 1978, p. 1290), is hereby amended to read as follows:

“Section 4. Each member of the board of registrars shall receive twenty dollars per day from the county general fund, for each day's attendance upon the special sessions of the board required under the provisions of this act; but if such special session is held on the same day a regular session is required to be held under the laws of this state, the registrars shall receive only one per diem allowed for performing their regular duties, it being the intent and purpose of this act that registrars shall be entitled to receive only one per diem allowance for one day's service. If one or more of the members of the board shall refuse, neglect, or be unable to serve, or if a vacancy or vacancies occur in the membership of the board from any cause, the Governor, State Auditor, and Commissioner of Agriculture and Industries, or a majority of them, shall forthwith make other appointments to fill such vacancies.”

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-651

H. 976—Whatley, Adams (C)

AN ACT

Relating to Russell County; providing for the hiring of five additional deputy sheriffs to be appointed by the sheriff and providing salaries therefor.

Be It Enacted by the Legislature of Alabama:

Section 1. The county governing body of Russell County is hereby authorized to hire five (5) additional deputy sheriffs, all of

whom shall be appointed by the sheriff of said county. The salaries for the deputies shall be set by the county commission and shall be payable in monthly installments from the general fund of the county.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-652

H. 977—Adams (C), Whatley

AN ACT

Relating to Russell County; to provide that all functions, duties and responsibilities for the construction, maintenance and repair of public roads, highways, bridges and ferries in the county shall be vested in the county engineer and shall be maintained on the basis of the county as a whole, without regard to district or beat lines, and to prescribe certain duties for the county engineer.

Be It Enacted by the Legislature of Alabama:

Section 1. All functions, duties and responsibilities for the construction, maintenance and repair of public roads, highways, bridges and ferries in Russell County are hereby vested in the county engineer, who shall, insofar as possible, construct and maintain such roads, highways, bridges and ferries on the basis of the county as a whole or as a unit, without regard to district or beat lines.

Section 2. The county engineer shall assume the following duties, but shall not be limited to such duties:

(1) to employ, supervise and direct all such assistants as are necessary properly to maintain and construct the public roads, highways, bridges, and ferries of Russell County, and he shall have authority to prescribe their duties and to discharge said employees for cause, or when not needed; (2) to perform such engineering and surveying service as may be required, and to prepare and maintain the necessary maps and records; (3) to maintain the necessary accounting records to reflect the cost of the county highway system; (4) to build, or construct new roads, or change old roads, upon the order of the county commission; (5) insofar as is feasible to construct

and maintain all country roads on the basis of the county as a whole or as a unit.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-653

H. 981—Penry, McMillan

AN ACT

Relating to Baldwin County; to provide an additional expense allowance for the coroner of said county.

Be It Enacted by the Legislature of Alabama:

Section 1. The coroner of Baldwin County shall receive an additional expense allowance of \$500.00 per month which shall be paid from the county general funds.

Said expense allowance shall be in addition to any salary and other expense allowance heretofore provided to such officer.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-654

H. 983—Dial

AN ACT

Relating to Cleburne County; to provide for the taxing and collecting of certain additional court costs for the purposes of establishing a Law Library Fund and a Sheriff's Department Fund; and to authorize the expenditure of said funds.

Be It Enacted by the Legislature of Alabama:

Section 1. In Cleburne County, in addition to all other fees there shall be taxed as costs the sum of \$3.00 in each civil or quasi-civil action at law, suit in equity, criminal case, quasi-criminal case, proceedings on a forfeited bail bond or proceedings on a forfeited bond given in connection with an appeal from a judgement or conviction in any inferior or municipal court of the county, in the circuit court of Cleburne County, or the district court of Cleburne County, hereinafter filed in or arising in the circuit court of Cleburne County, or the district court of Cleburne County, or brought by appeal, certiorari or otherwise to the circuit court of Cleburne County, or the district court of Cleburne County, which costs shall be collected as other costs in such cases are collected by the clerk, or ex-officio clerk, of said courts or the register of the circuit court of Cleburne County, as the case may be.

Section 2. Such fees when collected by the clerks or other collecting officers of such courts shall be paid into the general fund of Cleburne County. One dollar and fifty cents (\$1.50) of said fees shall be deposited into a separate "Sheriff's Department Fund" to be used solely for the maintenance of the county sheriff's department. One dollar and fifty cents (\$1.50) of said fees shall be deposited in a separate fund designated as "Law Library Fund" and shall be expended by the judge of the district court of Cleburne County for the purpose of establishing, maintaining, and operating the Cleburne County Law Library.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this act are hereby repealed.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-655

H. 985—Dial

AN ACT

To reopen the state employees' retirement system of Alabama for prior service for certain employees of Cleburne County who did not become members of the said retirement system on the date of the effective participation of Cleburne County; to

provide that as a prerequisite to such credit, members must be an active and contributing member of the employees' retirement system and in the active service of Cleburne County, the employer for whom such prior service was rendered; and providing that Cleburne County shall pay such employer costs as are necessary with respect to its employees subject to this act.

Be It Enacted by the Legislature of Alabama:

Section 1. Any employee of Cleburne County who was in the employment of such county and who did not become a member of the state employees' retirement system on the effective date of participation in such retirement system by Cleburne County, an employer participating in said retirement system pursuant to Section 36-27-6, Code of Alabama 1975, may hereby become a member of the retirement system and may hereby claim and purchase credit for any prior service as an employee of such county, provided he shall pay to the employees' retirement system on or before ninety days from the effective date of this act, a sum equal to the total contributions which he would have contributed during such period of prior service based on his annual compensation in each year of prior service claimed at the percentage rate of member contribution prevailing at the time payment is made hereunder, together with interest compounded annually at eight per centum (8%) annually until the date of repayment.

Section 2. In addition to all other conditions and prerequisites for prior service credit hereunder, any member claiming such prior service credit must and shall be on the date payment is made a full-time and permanent employee of Cleburne County, the employer for whom the prior service was rendered.

Section 3. Anything in this act to the contrary notwithstanding, the employer cost for the granting of any service credit granted under the provisions of this act shall become the continuing liability of the employer for whom such service was rendered.

Section 4. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. The provisions of this act are supplemental; however, all laws or parts of laws in direct conflict herewith are hereby repealed.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-656

H. 989—Carothers, Daniels, Grimsley

AN ACT

Relating to Houston County; to allow the assessment and payment of fees by owners for the paving by the county of streets within the county; to authorize the county governing body to establish and maintain a program of street paving, and to allow Houston County a lien therefore on such abutting land and improvements thereon.

Be It Enacted by the Legislature of Alabama:

Section 1. The county governing body or its road maintenance department or agency shall have the authority to pave any streets within Houston County. The county governing body or its duly authorized agency is hereby authorized to establish and maintain such a program of paving streets, specifically within subdivisions; including, but not limited to, authorization to set and collect reasonable fees for such services and improvements.

Section 2. The county governing body is hereby authorized to set up and create within its road maintenance department rules and regulations regarding proper notification to adjoining land owners of the intention of said county to perform any work or labor upon or furnish any material for any paving, curb, gutter, storm sewer, sanitary sewer, or other improvement in or on any public or dedicated street, avenue, alley, or other public way, or thoroughfare; and upon completion thereof shall have a lien therefor on such abutting land and improvements thereof.

Section 3. Whenever Houston County shall establish, construct or reconstruct, improve or reimprove a public highway, street or avenue, it may assess such proportionate cost of the establishment, construction, reconstruction, improvement or reimprovement of such streets, avenues or highways against the property benefited thereby, but such cost shall not exceed the increased value of such property by reason of the special benefits derived from such improvements.

Section 4. Houston County shall have a lien on the lots or parcels of land so assessed as provided by the general laws covering assessment liens for public improvements, and property owners shall have the right to pay such assessments as provided by the general laws.

Section 5. Houston County may issue bonds of the county for the improvements mentioned in said section to pay the cost of such public improvements agreed to be paid by said county, and may

contract to build or construct such streets, highways or avenues and to pay therefor in the same manner as private contractors are now paid.

Section 6. The proceeding under this article shall be held and governed by the general laws of the state of Alabama relating to assessments against property for public improvements insofar as said laws are applicable.

Section 7. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 8. All laws or parts of laws which conflict with this act are hereby repealed.

Section 9. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-657

H. 993—Stewart

AN ACT

This bill provides that a stamp shall be affixed to each magazine sold in Mobile County which contains pictures or photographs of uncovered female breasts or the uncovered genital organs of a man or woman, providing for a fee to the charged for each stamp and providing for the use of the revenue collected therefrom.

Be It Enacted by the Legislature of Alabama:

Section 1. Each magazine sold at retail in Mobile County which contains pictures, photographs or drawings of uncovered female breasts or the uncovered genital organs of any man or woman shall have a stamp affixed to its cover. The tax collector of Mobile County shall provide each wholesaler of such magazines with a stamp to be affixed to the magazines, and the wholesaler shall be responsible for affixing the stamp to each magazine that comes within the meaning of this act. If a magazine that comes within the meaning of this act is purchased directly from the publisher, then the retailer shall be responsible for affixing the stamp to each magazine. Magazines purchased directly from the publisher by a customer through a subscription that is delivered by mail are expressly excluded from the provisions of this act.

Section 2. Each wholesaler that sells magazines that come within the meaning of this act shall pay to the tax collector of Mobile County on a monthly basis fifty cents (.50¢) for each stamp affixed to a magazine. A wholesaler shall verify their monthly sales by providing the tax collector of Mobile County with a copy of their invoice for each magazine that comes within the meaning of this act. Each wholesaler shall pay the required fee to the tax collector of Mobile County within twenty-one (21) days of the receipt of the invoice. Where a publisher reimburses a wholesaler for unsold copies of magazines that come within the meaning of this act, said wholesaler shall be allowed credit towards their required payment of fee by providing the tax collector of Mobile County with an invoice or other appropriate proof of reimbursement by the publisher. Provided, however, that each wholesaler prior to returning any unsold copies to the publisher shall take care that the stamp affixed to its cover has been destroyed or defaced so that said stamp is no longer useable or valid.

Where retailers purchase magazines directly from the publisher, they shall also pay to the tax collector of Mobile County fifty cents (.50¢) for each magazine that comes within the meaning of this act, shall also provide copies of invoices, and shall pay said fee within twenty-one (21) days of the receipt of said invoice.

Section 3. Within twenty-one (21) days of the receipt of the fees required by this act, the tax collector of Mobile County shall pay the following amounts as designated for each stamp fee received:

(a) Thirty cents (.30¢) to the University of South Alabama Medical Center to help provide for the costs of medical care.

(b) Three cents (.03¢) to Mobile County to be used for providing emergency ambulance service in the underserved areas of Mobile County.

(c) Three cents (.03¢) to the City of Mobile Paramedic Rescue Squads to be used for providing emergency service in the city of Mobile.

(d) Three cents (.03¢) to Mobile County to be used to provide parks and other recreational facilities in the unincorporated areas of Mobile County and in any municipality, exclusive of the City of Mobile.

(e) Three cents (.03¢) to the City of Mobile to be used to provide parks and other recreational facilities in the city of Mobile.

(f) Six cents (.06¢) to be provided jointly to the Sheriff of Mobile County and the Police Commissioner of the City of Mobile to

be used to support and encourage community watch patrols in the city of Mobile and Mobile County. The funds shall be used to provide equipment for community watch patrols, including CB mobile and base units, and identification signs, and to provide for equipment, materials and personnel to support and increase local community watch patrols by establishing liaison personnel within the Mobile Police Department and the Sheriff's Department of Mobile County. If a need for equipment as designated in this section exists among any organized community watch patrol, up to one half of the funds provided by this section during any given month shall be spent meeting those equipment needs. Provided, however, that the community watch patrol must provide no less than twenty percent (20%) of the costs of any equipment purchase. No community watch patrol shall receive more than One Thousand dollars (\$1000.00) of equipment under the provisions of this act until all community watch patrols have received similar amounts or have indicated in writing their willingness to forgo such financial assistance.

For the purpose of encouraging the orderly development of active community watch patrol organizations throughout Mobile County and for encouraging the continued development of existing community watch patrols, the Mobile Police Commissioner and the Sheriff of Mobile County shall receive the recommendations of the "Crime-in-eyes" advisory council for the Mobile County community watch patrol" as said recommendations shall pertain to providing equipment to community watch patrols. If any disagreements over expenditure of funds shall develop, the Sheriff and the Police Commissioner, acting jointly, shall have final authority over the allocation of funds.

(e) Two cents (.02¢) shall be paid to the tax collector of Mobile County to cover the expenses incident to the implementation of this act.

Section 4. The County of Mobile and the City of Mobile are hereby authorized to pass ordinances providing for the enforcement of this act.

Section 5. All laws or parts of laws in conflict herewith are hereby repealed.

Section 6. The provisions of this act are severable. If any part of this act is declared to be invalid or unconstitutional such declaration shall not affect the part which remains.

Section 7. This act shall become effective October 1, 1979 upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-658

H. 997—Naramore, Brakefield

AN ACT

Relating to Walker County, providing for the establishment of a consolidated and unified system for assessment and collection of taxes, under the supervision of an elected county official designated as county revenue commissioner, and repealing conflicting laws.

Be It Enacted by the Legislature of Alabama:

Section 1. After September 30, 1981, there shall be a county revenue commission in Walker County. A commissioner shall be elected at the general election of 1980 and at the general election every four years thereafter, who shall serve for a term of four years from one October next after his election, and until his successor is elected and has qualified.

Section 2. The county revenue commissioner shall do and perform all acts, duties and functions required by law to be performed either by the tax assessor or by the tax collector of the county relative to the assessment of property for taxation, the collection of taxes, the keeping of records and making of reports concerning assessments for and the collection of taxes.

Section 3. Subject to the approval of the court of county commissioners or other like governing body, the county revenue commissioner shall appoint and fix the duties and compensation of a sufficient number of deputies, clerks, and assistances to perform properly the duties of his office. The acts of deputies shall have the same force and legal effect as if performed by the county revenue commissioner himself.

Section 4. Before entering upon the duties of his office the county revenue commissioner shall take the oath of office prescribed by Article XVI of the Constitution of Alabama, and execute a bond in such sum as may be made by the court of county commissioners, or like governing body of the county, giving security thereon a bonding company authorized to do business of Alabama. The bond shall be conditioned as other official bonds are conditioned and shall be approved by and filed with the judge of probate. The cost of the bond required herein shall be paid out of the general fund of the county on warrant of the court of county commissioners or other like governing body of the county, and shall

be a preferred claim against the county.

Section 5. The court of county commissioners or other like governing body of the county shall provide the necessary offices for the county revenue commissioner in the courthouse, and shall provide all stationery, equipment and office supplies, not otherwise furnished by law, needed for the efficient performance of the duties of the office.

Section 6. The county revenue commissioner shall collect and pay into the general fund of the county all fees, percentages, commissions and other allowances which the tax assessor, the tax collector of the county are now or hereafter by law authorized or directed to charge or collect for the performance of any duty hereby imposed on the county revenue commissioner. A compensation for the performance of the duties of his office the county revenue Commissioner shall receive an annual salary of \$15,000 payable in equal monthly installments out of the general fund of the county.

Section 7. The offices of tax assessor and tax collector of Walker County are hereby abolished effective the 1st day of October, 1981.

Section 8. It is the purpose of this Act to promote the public convenience in Walker County by consolidating the office of tax assessor and tax collector into one office.

Section 9. The provisions of this act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the parts which remain.

Section 10. All laws or parts of laws which conflict with the Act are repealed; and Act No. 443, H. 936, 1949 Regular Session and Act No. 444, H. 937, 1949 Regular Session are hereby expressly repealed.

Section 11. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-659

H. 998—Naramore, Brakefield

AN ACT

Relating to Walker County, Alabama, only; to provide for compensation for the

members of the Board of Equalization for Walker County and to provide retroactive effect to June 1, 1979.

Be It Enacted by the Legislature of Alabama:

Section 1. The Chairman and each member of the board of equalization of Walker County shall receive a supplemental salary of \$15.00 per day for each day of attending business of the board. The salaries herein provided shall be payable from the county general fund and shall be payable in addition to any salary, allowance or other compensation payable to such persons by law.

Section 2. This act shall become effective June 1, 1979 upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-660

S. 35—McDonald

AN ACT

Relating to Madison County; providing that the county commission may provide additional compensation for poll officials in an amount up to \$10 per day from the county general fund.

Be It Enacted by the Legislature of Alabama:

Section 1. The Madison County Commission may provide compensation to election officials in addition to that now provided by law, in an amount not exceeding \$10 per diem.

Section 2. This additional compensation shall be appropriated from the county general fund.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-661

S. 100—Weeks

AN ACT

To amend Section 27-15-28 and Section 27-36-7, Code of Alabama, 1975, as amended, which relate to the standard nonforfeiture law and the standard valuation law of life insurance and annuity contracts, so as to increase the statutory interest

assumptions for new life insurance and annuity business; to redefine the commissioners reserve valuation method for annuities; to modify the commissioners reserve valuation method and deficiency reserve requirements for those life insurance policies which now require deficiency reserves; to revise the permissible age setback for females in the standard nonforfeiture and valuation laws for life insurance from three years to six years; to revise the standard valuation law to increase the statutory interest rate for group annuities purchased prior to the 1972 NAIC Amendments to the standard valuation law; and to adopt a new standard nonforfeiture law for individual deferred annuities.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 27-15-28, Code of Alabama 1975, is hereby amended to read as follows:

“§ 27-15-28.

“(a) This section shall be known as the standard nonforfeiture law for life insurance.

“(b) Nonforfeiture provisions--Life.--In the case of policies issued on, or after, the operative date of this section, as defined in subsection (1) of this section, no policy of life insurance, except as set forth in subsection (k) of this section, shall be delivered or issued for delivery in this state unless it shall contain in substance the following provisions, or corresponding provisions, which, in the opinion of the commissioner, are at least as favorable to the defaulting or surrendering policyholder:

“(1) That, in the event of default in any premium payment, the insurer will grant, upon proper request not later than 60 days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such value as may be specified in this section;

“(2) That, upon surrender of the policy within 60 days after the due date of any premium payment in default after premiums have been paid for at least three full years in the case of ordinary insurance and five full years in the case of industrial insurance, the insurer will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be specified in this section;

“(3) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than 60 days after the due date of the premium in default;

“(4) That, if the policy shall have become paid up by completion of all premium payments, or if it is continued under any paid-up nonforfeiture benefit which became effective on, or after, the third policy anniversary in the case of ordinary insurance or the

fifth policy anniversary in the case of industrial insurance, the insurer will pay, upon surrender of the policy within 30 days after any policy anniversary, a cash surrender value of such amount as may be specified in this section;

“(5) A statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary, either during the first 20 policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the insurer on the policy; and

“(6) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of this state; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the insurer on the policy; and a statement of the method to be used in calculating the cash surrender value, and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

“(c) Any of the provisions, or portions thereof, set forth in subdivisions (b) (1) through (b) (6) of this section which are not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy. The insurer shall reserve the right to defer the payment of any cash surrender value for a period of six months after demand therefor with surrender of the policy.

“(d) Cash surrender value--Life.--Any cash surrender value available under the policy in the event of default in the premium payment due on any policy anniversary, whether or not required by subsection (b) of this section, shall be an amount not less than the excess, if any, of the present value on such anniversary of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions if there had been no default, over the sum of:

“(1) The then present value of the adjusted premium as defined in subsections (f), (g), (h) and (i) of this section,

corresponding to premiums which would have fallen due on and after such anniversary; and

“(2) The amount of any indebtedness to the insurer on account of or secured by the policy. Any cash surrender value available within 30 days after any policy anniversary under any policy paid up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefits, whether or not required by such subsection (b) of this section, shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the insurer on account of or secured by the policy.

“(e) Paid-up nonforfeiture benefits--Life.--Any paid-up nonforfeiture benefit available under the policy in the event of default in the premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the condition that premiums shall have been paid for at least a specified period.

“(f) The adjusted premium--Life.--Except as provided in subsection (h) of this section, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding extra premiums on a substandard policy, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of:

“(1) The then present value of the future guaranteed benefits provided for by the policy;

“(2) Two percent of the amount of the insurance if the insurance be uniform in amount or of the equivalent uniform amount, as defined in this section, if the amount of insurance varies with the duration of the policy;

“(3) Forty percent of the adjusted premium for the first policy year; and

“(4) Twenty-five percent of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less; provided, however, that in applying the percentages specified in subdivisions (3) and (4), of

this subsection, no adjusted premiums shall be deemed to exceed four percent of the amount of insurance or uniform amount equivalent thereto.

“Whenever the plan or term of a policy has been changed, either by request of the insured or automatically in accordance with the provisions of the policy, the date of inception of the changed policy for the purposes of determining a nonforfeiture benefit or cash surrender value shall be the date as of which the age of the insured is determined for the purposes of the changed policy. The date of issue of a policy for the purpose of this subsection shall be the date as of which the rated age of the insured is determined.

“(g) In the case of a policy providing an amount of insurance varying with the duration of the policy, the equivalent uniform amount thereof for the purpose of subsection (f) of this section shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy containing the same endowment benefit, or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy; provided, however, that, in the case of a policy for a varying amount of insurance issued on the life of a child under age 10, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age 10 were the amount provided by such policy at age 10.

“(h) The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to:

“(1) The adjusted premiums for an otherwise similar policy issued at the same age without such insurance benefits increased, during the period for which premiums for such term insurance benefits are payable; or

“(2) The adjusted premiums for such term insurance, subdivisions (1) and (2) of this subsection being calculated separately and as specified in subsections (f) and (g) of this section.

(i) All adjusted premiums and present values referred to in this section shall, for all policies of ordinary insurance, be calculated on the basis of the commissioners’ 1958 standard ordinary mortality table, provided, that, for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than three years younger than the actual age of the insured and provided

that for any category of ordinary insurance issued on female risks on or after the effective date of this amendatory Act of 1979, adjusted premiums and present values may be calculated according to an age not more than six (6) years younger than the actual age of the insured. Such calculation for all policies of industrial insurance shall be made on the basis of the commissioners' 1961 standard industrial mortality table. All calculations shall be made on the basis of the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits; provided, that such rate of interest shall not exceed three and one-half percent per annum; provided further, that a rate of interest not exceeding four percent per annum may be used for policies issued on or after August 23, 1976 and prior to the effective date of this amendatory Act of 1979 and a rate of interest not exceeding five and one-half percent (5-1/2%) per annum may be used for policies issued on or after the effective date of this amendatory Act of 1979; provided, however, that, in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed in the case of ordinary policies may not be more than those shown in the commissioners' 1958 extended term insurance table and, in the case of industrial policies, may not be more than those shown in the commissioners' 1961 industrial extended term insurance table; provided further, that, for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the commissioner.

“(j) Calculation of values--Life.--Any cash surrender value and any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subsections (d), (e), (f), (g), (h) and (i) of this section may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the dividends used to provide such additions. Notwithstanding the provisions of subsection (d) of this section, additional benefits payable:

“(1) In the event of death or dismemberment by accident or accidental means;

“(2) In the event of total and permanent disability;

“(3) As reversionary annuity or deferred reversionary annuity benefits;

“(4) As term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply;

“(5) As term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child’s age is 26, is uniform in amount after the child’s age is one and has not become paid-up by reason of the death of a parent of the child; and

“(6) As other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

“(k) Exceptions.--This section shall not apply to any reinsurance, group insurance, pure endowment, annuity or reversionary annuity contract, nor to any term policy of uniform amount, or renewal thereof of 15 years or less expiring before age 66, for which uniform premiums are payable during the entire term of the policy nor to any term policy of decreasing amount on which each adjusted premium, calculated as specified in subsections (f), (g), (h) and (i) of this section, is less than the adjusted premium so calculated on such 15-year term policy issued at the same age and for the same initial amount of insurance. This section shall not apply to benefits provided in the form of funeral or monument merchandise and services under burial policies except to the extent provided in Section 27-17-13.

Section 2. Section 27-36-7, Code of Alabama, 1975, is hereby amended to read as follows:

“§ 27-36-7.

“(a) This section shall be known as the Standard Valuation Law.

“(b) Annual valuation.--The commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer doing business in this state and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or others) used in

the calculation of such reserves. In the case of an alien insurer, such valuation shall be limited to its insurance transactions in the United States. In calculating such reserves, the commissioner may use group methods and approximate averages for fractions of a year or otherwise. He may accept in his discretion the insurer's calculation of such reserves. In lieu of the valuation of the reserves required in this title of any foreign or alien insurer, he may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard provided in this section, and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction. Where any such valuation is made by the commissioner, he may use the actuary of the department or employ an actuary for the purpose, and the reasonable compensation and expenses of the actuary, at a rate approved by the commissioner, upon demand by the commissioner, supported by an itemized statement of such compensation and expenses, shall be paid by the insurer. When a domestic insurer furnishes the commissioner with a valuation of its outstanding policies as computed by its own actuary or by an actuary deemed satisfactory for the purpose by the commissioner, the valuation shall be verified by the actuary of the department without cost to the insurer.

“(c) The minimum standard for the valuation of all such policies and contracts issued prior to January 1, 1972 shall be as required under laws in effect immediately prior to January 1, 1972, or the minimum provided in subsection (d) of this section if less except that the minimum standard for the valuation of annuities and pure endowments purchased under group annuity and pure endowment contracts issued prior to January 1, 1972 shall be that provided by the laws in effect prior to January 1, 1972 by replacing the interest rates specified in such laws by an interest rate of five percent (5%) per annum.

“(d) (1) Except as otherwise provided in subdivision (2) of this subsection, the minimum standard for the valuation of all such policies and contracts issued on or after January 1, 1972 shall be the commissioner's reserve valuation method defined in subsection (e) of this section, five percent interest for group annuities and pure endowment contracts and three and one-half percent interest for all other such policies and contracts or, in the case of policies and

contracts, other than annuity and pure endowment contracts, issued on or after August 23, 1976, four percent interest, for such policies issued prior to the effective date of this amendatory act of 1979, and four and one-half percent interest for all other such policies issued on or after the effective date of this amendatory act of 1979, and the following tables:

“a. For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies, the commissioner’s 1958 standard ordinary mortality table; except, that for any category of such policies issued on female risks modified net premiums and present values, referred to in subsection (e) of this section, may be calculated, according to an age not more than three years younger than the actual age of the insured and for any category of such policies issued on female risks on or after the effective date of this amendatory act of 1979, modified net premiums and present values, referred to in subsection (e), may be calculated according to an age not more than six years younger than the actual age of the insured;

“b. For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, the commissioner’s 1961 standard industrial mortality table;

“c. For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the 1937 standard annuity mortality table or, at the option of the insurer, the annuity table for 1949, ultimate, or any modification of either of these tables approved by the commissioner;

“d. For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the group annuity mortality table for 1951, any modification of such table approved by the commissioner or, at the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts;

“e. For total and permanent disability benefits in, or supplementary to, ordinary policies or contracts for policies or contracts issued on or after January 1, 1972, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the society of actuaries, with due regard to the type of benefit; for policies or contracts issued prior to January 1, 1972, either such tables or, at the option of the insurer, the class (3) disability table (1926). Any such table shall, for active lives, be

combined with a mortality table permitted for calculating the reserve for life insurance policies;

"f. For accidental death benefits in or supplementary to policies, for policies issued on or after January 1, 1972, the 1959 accidental death benefits table; for policies issued prior to January 1, 1972, either such table or, at the option of the insurer, the intercompany double indemnity mortality table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies;

"g. For group life insurance, life insurance issued on the substandard basis and other special benefits, such tables as may be approved by the commissioner as being sufficient with relation to the benefits provided by such policies.

"(2) The minimum standards for the valuation of all individual annuity and pure endowment contracts issued on or after August 23, 1976, and for all annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts shall be the commissioner's reserve valuation method defined in subsection (e) of this section and the following tables and interest rates:

"a. For individual annuity and pure endowment contracts issued on or after August 23, 1976 and prior to the effective date of this amendatory act of 1979, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table, or any modification of this table approved by the commissioner, and six percent interest for single premium immediate annuity contracts and four percent interest for all other individual annuity and pure endowment contracts;

"b. For individual single premium immediate annuity contracts issued on or after the effective date of this amendatory act of 1979, excluding any disability and accidental death benefits in such contracts, the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the commissioner, and seven and one-half percent interest;

"c. For individual annuity and pure endowment contracts issued on or after the effective date of this amendatory act of 1979, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts, the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the commissioner, and five and one-half percent interest for single premium deferred annuity and pure endowment contracts and four and one-half percent

interest for all other such individual annuity and pure endowment contracts;

“d. For all annuities and pure endowments purchased on or after August 23, 1976 and prior to the effective date of this amendatory act of 1979 under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 group annuity mortality table, or any modification of this table approved by the commissioner, and six percent interest; and

“e. For all annuities and pure endowments purchased on or after the effective date of this amendatory act of 1979 under group annuity and pure endowment contracts excluding any disability and accidental death benefits purchased under such contracts, the 1971 Group Annuity Mortality Table, or any modification of this table approved by the commissioner and seven and one-half percent interest.

“After August 23, 1976, any insurer may file with the commissioner a written notice of its election to comply with the provisions of this subdivision after a specified date but before January 1, 1980, which shall be the operative date of this subdivision for such insurer; provided, that an insurer may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If an insurer makes no such election, the operative date of this subdivision for such insurer shall be January 1, 1980.

“(e) Commissioner’s reserve valuation method and Commissioners Annuity Reserve Valuation Method.

“(1) Except as otherwise provided in subsections (e) (3), (e) (4) and (i) of this section reserves, according to the commissioner’s reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, such future guaranteed benefits provided for by such policies over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits, excluding extra premiums on a substandard policy, that the present value at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of paragraph a over paragraph b of this subdivision as follows:

"a. A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; provided, however, that such net level annual premium shall not exceed the net level annual premium on the 19-year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy; and

"b. A net one-year term premium for such benefits provided for in the first policy year.

"(2) Reserves according to the commissioner's reserve valuation method for:

"a. Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums;

"b. Group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended;

"c. Disability and accidental death benefits in all policies and contracts; and

"d. All other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of subdivision (e) (1) of this section.

"(3) Subdivision (e) (4) of this section shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended.

"(4) Reserves according to the commissioners annuity reserves method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in

such contracts, shall be the greatest of the respective excesses of the present values at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of such contract, that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values.

“(f) Minimum aggregate reserves.--In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after January 1, 1972, be less than the aggregate reserves calculated in accordance with the method set forth in subsection (e) and (i) of this section and the mortality table, or tables, and rate, or rates of interest used in calculating nonforfeiture benefits for such policies.

“(g) Optional reserve basis.

“(1) Reserves for all policies and contracts issued prior to January 1, 1972, may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to such date; and

“(2) For any category of policies, contracts or benefits specified in subsection (d) of this section issued on or after January 1, 1972, reserves may be calculated, at the option of the insurer, according to any standard, or standards, which produce greater aggregate reserves for such category than those calculated according to the minimum standard provided in this section, but the rate, or rates, of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate, or rates, of interest used in calculating any nonforfeiture benefits provided for therein.

“(h) Lower valuations.--An insurer which at any time had adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard provided in this section may, with written notice thereof to the commissioner, adopt any lower standard of valuation, but not lower

than the minimum provided in this section.

“(i) **Minimum Reserves.**--If in any contract year the gross premium charged by any life insurer on any policy or contract issued on or after January 1, 1972 is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon, but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium.”

Section 3. (1) This section shall be known as the Standard Nonforfeiture Law for Individual Deferred Annuities.

(2) This section shall not apply to any reinsurance group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this state through an agent or other representative of the company issuing the contract.

(3) In the case of contracts issued on or after the operative date of this section as defined in subsection (12) no contract of annuity, except as stated in subsection (2), shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the contractholder, upon cessation of payment of considerations under the contract.

(a) That upon cessation of payment of considerations under a contract, the company will grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections (5), (6), (7), (8), and (10).

(b) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the

company will pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections (5), (6), (8), and (10). The company shall reserve the right to defer the payment of such cash surrender benefit for a period of six (6) months after demand therefor with surrender of the contract.

(c) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits.

(d) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract.

Notwithstanding the requirements section, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two (2) full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than twenty dollars (\$20.00) monthly, the company may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

(4) The minimum values as specified in subsections (5), (6), (7), (8), and (10) of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this subsection.

(a) With respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at a rate of interest of three percent (3%) per annum of percentages of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of:

(i) any prior withdrawals from or partial surrenders of the

contract accumulated at a rate of interest of three percent (3%) per annum; and

(ii) the amount of any indebtedness to the company on the contract, including interest due and accrued; and increased by any existing additional amounts credited by the company to the contract.

The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of thirty dollars (\$30.00) and less a collection charge of one dollar and twenty-five cents (\$1.25) per consideration credited to the contract during that contract year. The percentages of net considerations shall be sixty-five percent (65%) of the net consideration for the first contract year and eighty-seven and one-half percent (87 1/2%) of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five percent (65%) of the portion of the total net consideration for any renewal contract year which exceeds by not more than two (2) times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five percent (65%).

(b) With respect to contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two exceptions:

(i) The portion of the net consideration for the first contract year to be accumulated shall be the sum of sixty-five percent (65%) of the net consideration for the first contract year plus twenty-two and one-half percent (22 1/2%) of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years.

(ii) The annual contract charge shall be the lesser of (i) thirty dollars (\$30.00) or (ii) ten percent (10%) of the gross annual consideration.

(c) With respect to contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to ninety percent (90%) and the

net considerations shall be the gross consideration less a contract charge of seventy-five dollars (\$75.00).

(5) Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and the interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

(6) For contracts which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrender of the contract, such present value being calculated on the basis of an interest rate not more than one percent (1%) higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

(7) For contracts which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited by the company to the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, such present values shall be calculated on the basis of such interest rate and mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of the paid-up

annuity benefit be less than the minimum nonforfeiture amount at that time.

(8) For the purpose of determining the benefits calculated under subsections (6) and (7) in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

(9) Any contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

(10) Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

(11) For any contract which provides, within the same contract by rider or supplemental contract provisions, both annuity benefits and life insurance benefits that are in excess of the greater cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subsections (5), (6), (7), (8) and (10) additional benefits payable (1) in the event of total and permanent disability, (2) as reversionary annuity or deferred reversionary annuity benefits, or (3) as other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this section. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

(12) After the effective date of this section, any company may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date before the second anniversary of the effective date of this section. After the filing of such notice, then upon such specified date, which shall be the operative date of this section for such company, this section shall become operative with respect to annuity contracts thereafter issued by such company. If a company makes no such election, the operative date of this section for such company shall be the second anniversary of the effective date of this section.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-662

S. 132—Callahan

AN ACT

To amend Section 41-16-50, Code of Alabama, 1975, which relates to competitive bidding and the expenditure of public funds, so as to include the Alabama state docks department in the provisions of the statute which excludes them from the requirement of competitive bids where the amount is less than \$2,000.00; and to further provide for the awarding of contracts to resident bidders.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 41-16-50, Code of Alabama 1975, is hereby amended to read as follows:

“Section 41-16-50. (a) All expenditure of funds of whatever nature for labor, services or work, or for the purchase or lease of materials, equipment, supplies or other personal property, involving \$2,000.00 or more, made by or on behalf of the Alabama state docks department, any state trade school, state junior college, state college or university under the supervision and control of the state board of education, the city and county boards of education, the district boards of education of independent school districts, the county commissions and the governing bodies of the municipalities of the state, and the governing boards of instrumentalities of counties and municipalities, including waterworks boards, sewer boards, gas boards and other like utility boards and commissions, except as hereinafter provided, shall be made under contractual agreement entered into by free and open competitive bidding, on sealed bids, to the lowest responsible bidder; provided, that in the

event a bid is received for an item of personal property to be purchased or contracted for from a person, firm or corporation deemed to be a responsible bidder, having a place of business within the county, where the awarding authority is the county or an instrumentality thereof, or within the municipality, where the municipality or an instrumentality thereof is the awarding authority, or within the state, where the state or an instrumentality thereof is the awarding authority, which such bid is no more than three percent greater than the bid of the lowest responsible bidder, the awarding authority may award the contract to such resident responsible bidder. In the event only one bidder responds to the invitation to bid, the awarding authority may reject the bid and negotiate the purchase or contract, providing the negotiated price is lower than the bid price.

“(b) The governing bodies of two or more contracting agencies, as hereinabove enumerated, within the same county or adjoining counties, may provide by joint agreement for the purchase of labor, services or work, or for the purchase or lease of materials, equipment, supplies or other personal property for use by their respective agencies. Such agreement shall be entered into by similar ordinances, in the case of municipalities, or resolution, in the case of other contracting agencies, adopted by each of the participating governing bodies, which shall set forth the categories of labor, services or work or for the purchase or lease of materials, equipment, supplies or other personal property to be purchased, the manner of advertising for bids and of awarding of contracts, the method of payment by each participating contracting agency and other matters deemed necessary to carry out the purposes of the agreement. Each contracting agency's share of expenditures for purchases under any such agreement shall be appropriated and paid in the manner set forth in the agreement and in the same manner as for other expenses of the contracting agency. The contracting agencies entering into a joint agreement, as herein permitted, may designate a joint purchasing agent, and such agent shall have the responsibility to comply with the provisions of this article. It is provided further that purchases, contracts or agreements made pursuant to a joint purchasing agreement shall be subject to all of the terms and conditions of this article.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-663

H. 152—Waggoner

AN ACT

Creating the Alabama Aviation Hall of Fame Board; providing the method of selection of its members; prescribing its powers and duties; providing that no person may derive income or profit from the funds or property of the board; and providing that gifts to and property, funds and activities of the board shall be exempt from taxation.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby created and established a public agency of the state to be known as the Alabama Aviation Hall of Fame Board. The purpose and function of the board shall be to promote and encourage the growth and public support of aviation, especially general aviation within the state by providing official and public recognition and honor to individuals, living or dead, who by extraordinary achievement and service have made outstanding and substantial contributions to aviation in Alabama. Persons to receive such recognition may be residents of the state who received national recognition for aviation achievements elsewhere, or non-residents who contributed directly to aviation in this state.

Section 2. The board shall be composed of seven Alabama residents, who shall serve for terms of six years. Two members shall be appointed by the Governor of Alabama, one shall be appointed by the trustees of the Southern Museum of Flight, and one each by the mayors or chief executives of Mobile, Montgomery, Huntsville and Birmingham. One of the first members appointed by the Governor shall serve for a term of two years, and the first member appointed by the Mayors of Montgomery, Huntsville and Birmingham shall serve for four years. Members of the board shall not be compensated for their services, but may be reimbursed for expenses in attending meetings of the board. The board shall elect a chairman from its members, and shall adopt by-laws to govern its organization and procedures.

Section 3. The board may receive and expend legislative appropriations as provided by law, and may submit, receive and expend contributions of money and property. All gifts to, and property, funds, income and activities of the board shall be exempt from taxation.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid, or unconstitutional, such declaration shall not affect the part which remains.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise

becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-664

H. 715—Gafford, Cooley, Harvey,
Manley, Clark, Campbell,
Smith (J), Amari

AN ACT

To amend Sections 645, 650, 1235, 2015, 3225, 3230, 3240, 4045, 4140, 4145, 4150, 4510, and 4535 of Act No. 607, S. 33, Regular Session 1977 (Acts of Alabama 1977, p. 812), as amended, entitled, "An Act To provide an entirely new criminal code for the State of Alabama; defining offenses, fixing punishment; repealing numerous specific code sections and statutes that conflict herewith as well as all other laws that conflict with this Act," and to repeal Section 640 of said Act No. 607.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 645, 650, 1235, 2015, 3225, 3230, 3240, 4045, 4140, 4145, 4150, 4510 and 4535 of Act No. 607, S. 33, Regular Session 1977 (Acts of Alabama 1977, p. 812), as amended, are hereby amended to read as follows:

"Section 645. Duress.

"(a) It is a defense to prosecution that the actor engaged in the proscribed conduct because he was compelled to do so by the threat of imminent death or serious physical injury to himself or another.

"(b) The defense provided by this section is unavailable if the actor intentionally or recklessly placed himself in a situation in which it was probable that he would be subjected to duress. The defense is also unavailable if he was negligent in placing himself in such a situation, whenever negligence suffices to establish culpability for the offense charged.

"(c) It is no defense that a person acted at the command or persuasion of his or her spouse, unless such compulsion would establish a defense under this section. The presumption that a woman is subject to compulsion when acting in the presence of her husband is abolished.

"(d) The defense provided by this section is unavailable in a prosecution for (i) murder, or (ii) any killing of another under aggravated circumstances, as provided by Sections 13-11-1 through 13-11-9 of the Code of Alabama 1975, 'Death Penalty and Life Imprisonment without Parole.'

“Section 650. Entrapment.

“The Alabama Criminal Code adopts the present case law on entrapment.

“Section 1235. Habitual felony offenders--Additional penalties.

“(a) In all cases when it is shown that a criminal defendant has been previously convicted of any felony and after such conviction has committed another felony, he must be punished as follows:

“(1) On conviction of a Class C felony, he must be punished for a Class B felony;

“(2) On conviction of a Class B felony, he must be punished for a Class A felony;

“(3) On conviction of a Class A felony, he must be punished by imprisonment for life or for any term of not more than 99 years but not less than 15 years.

“(b) In all cases when it is shown that a criminal defendant has been previously convicted of any two felonies and after such convictions has committed another felony, he must be punished as follows:

“(1) On conviction of a Class C felony, he must be punished for a Class A felony;

“(2) On conviction of a Class B felony, he must be punished by imprisonment for life or for any term of not more than 99 years but not less than 15 years;

“(3) On conviction of a Class A felony, he must be punished by imprisonment for life or for any term of not less than 99 years.

“(c) In all cases when it is shown that a criminal defendant has been previously convicted of any three felonies and after such convictions has committed another felony, he must be punished as follows:

“(1) On conviction of a Class C felony, he must be punished by imprisonment for life or for any term not more than 99 years but not less than 15 years;

“(2) On conviction of a Class B felony, he must be punished for life in the penitentiary;

“(3) On conviction of a Class A felony, he must be punished by imprisonment for life without parole.

"Section 2015. Criminally negligent homicide.

"(a) A person commits the crime of criminally negligent homicide if he causes the death of another person by criminal negligence.

"(b) The jury may consider statutes and ordinances regulating the actor's conduct in determining whether he is culpably negligent under subsection (a) of this section.

"(c) Criminally negligent homicide is a Class A misdemeanor.

"Section 3225. Unauthorized Use of Vehicle and Unlawful Breaking and Entering a Vehicle.

"(1) A person commits the crime of unauthorized use of a vehicle if:

"(a) Knowing that he does not have the consent of the owner, he takes, operates, exercises control over, or otherwise uses a propelled vehicle; or

"(b) Having custody of a propelled vehicle pursuant to an agreement between himself or another and the owner thereof whereby the actor or another is to perform for compensation a specific service for the owner involving the maintenance, repair or use of the vehicle, he intentionally uses or operates it, without the consent of the owner, for his own purpose in a manner constituting a gross deviation from the agreed purpose; or

"(c) Having custody of a propelled vehicle pursuant to an agreement with the owner thereof whereby it is to be returned to the owner at a specified time, he knowingly retains or withholds possession thereof, without the consent of the owner, for so lengthy a period beyond the specified time as to render the retention or possession a gross deviation from the agreement.

"(d) Unauthorized use of a vehicle is a Class A misdemeanor, except that if a person by force or threat of force takes, operates, usurps or exercises control over a propelled vehicle with an operator or one or more passengers aboard he is guilty of a Class B felony.

"(2) A person commits the crime of unlawful breaking and entering a vehicle if, without the consent of the owner, he breaks into and enters a vehicle or any part of a vehicle with the intent to commit any felony or theft. For the purposes of this section, 'enters' means to intrude:

"(a) any part of the body or

"(b) any physical object connected with the body.

“(c) Unlawful breaking and entering a vehicle is a Class C felony.

“Section 3230. Defenses to prosecutions for theft and unauthorized use of vehicle.

“(a) It is a defense to a prosecution under sections 3201 through 3225 of this chapter (theft of property, theft of lost property, theft of services and unauthorized use of vehicle) that the actor honestly believed that he had a claim to the property or services involved which he was entitled to assert in the manner which forms the basis for the charge against him.

“(b) The burden of injecting the issue of claim of right is on the defendant, but this does not shift the burden of proof.

“Section 3240. Receiving stolen property--Definition.

“(a) A person commits the crime of receiving stolen property if he intentionally receives, retains or disposes of stolen property knowing that it has been stolen or having reasonable grounds to believe it has been stolen, unless the property is received, retained, or disposed of with intent to restore it to the owner.

“(b) If a person:

“(1) On two separate occasions within a year prior to the commission of the instant offense of receiving stolen property is found in possession or control of stolen property; or

“(2) Possesses goods or property which have been recently stolen; or

“(3) Regularly buys, sells, uses or handles in the course of business property of the sort received, and acquired the property without making reasonable inquiry whether the person selling or delivering the property to him had a legal right to do so, this shall be prima facie evidence that he has the requisite knowledge or belief.

“(c) The fact that the person who stole the property has not been convicted, apprehended or identified is not a defense to a charge of receiving stolen property.

“Section 4045. Fraudulent use of credit card.

“(a) A person commits the crime of fraudulent use of a credit card if he uses a credit card for the purpose of obtaining property or services with knowledge that:

“(1) The card is stolen; or

“(2) The card has been revoked or cancelled; or

“(3) For any other reason his use of the card is unauthorized by either the issuer or the person to whom the credit card is issued.

The mere use by the original issuee of a credit card which has expired is not within the provisions of subdivision (a) (3) of this section.

“(b) ‘Credit card’ means any instrument, writing or other evidence, whether known as a credit card, credit plate, charge plate or by any other name, which purports to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer.

“(c) Fraudulent use of a credit card is a Class C felony.

“Section 4140. Fraud in insolvency.

“(a) A person commits the crime of fraud in insolvency if, with the intent to defraud a creditor and with knowledge or reason to believe either that proceedings have been or are about to be instituted for the appointment of a receiver or that a composition agreement or other arrangement for the benefit of creditors has been or is about to be made, he:

“(1) Conveys, transfers, removes, conceals, destroys, encumbers or otherwise disposes of any part of or any interest in the debtor’s estate; or

“(2) Presents to any creditor or to the receiver any writing or record relating to the debtor’s estate, not otherwise within the coverage of sections 4905, 4906 or 4935, knowing or having reason to believe that it contains a false material statement; or

“(3) Misrepresents or refuses to disclose to the receiver, under circumstances not amounting to a violation of section 4515, the existence, amount or location of any part of or an interest in debtor’s estate, or any other information that he is legally required to furnish to the administrator.

“(b) ‘Receiver’ means an assignee or trustee for the benefit of creditors, a conservator, a liquidator or any other person legally entitled to administer property for the benefit of creditors.

“(c) Fraud in insolvency is a Class B misdemeanor.

“Section 4145. Issuing false financial statement.

“(a) A person commits the crime of issuing a false financial statement if, with intent to defraud, he:

“(1) Knowingly makes or utters a written instrument which

purports to describe the financial condition or ability of himself or some other person and which is inaccurate in some material respect; or

“(2) Represents in writing that a written instrument purporting to describe a person’s financial condition or ability to pay is accurate with respect to that person’s current financial condition or ability to pay, knowing or having reason to believe the instrument to be materially inaccurate in that respect.

“(b) Issuing a false financial statement is a Class B misdemeanor.

“Section 4150. Receiving deposits in failing financial institution.

“(a) A person commits the crime of receiving deposits in a failing financial institution, if, as an officer, manager or other person participating in the direction of a financial institution, he knowingly receives or permits the receipt of funds, a general deposit or other investment, knowing or having reason to believe that:

“(1) Due to financial difficulties the institution is about to suspend operations or go into receivership or reorganization, and

“(2) The person making the deposit or other payment is unaware of the precarious situation of the institution.

“(b) Receiving deposits in a failing financial institution is a Class A misdemeanor.

“Section 4510. Refusal to permit inspection.

“(a) A person commits the crime of refusing to permit inspection of property that is owned, possessed or otherwise subject to his control if a public servant is legally authorized to inspect such property and an attempt is being made to exercise that authority and he:

“(1) Refuses to produce the property for a reasonable inspection; or

“(2) Refuses to permit a reasonable inspection.

“(b) For the purposes of this section, ‘Legally authorized inspection’ includes any lawful search, sampling, testing or other examination of property, in connection with the regulation of the defendant’s business or occupation, that is authorized by law.

“(c) Refusing to permit inspection is a Class C misdemeanor.

"Section 4535. Rendering a false alarm.

"(a) A person commits the crime of rendering a false alarm if he knowingly causes a false alarm of fire or other emergency involving danger to person or property to be transmitted to or within an official or volunteer fire department or any other governmental agency.

"(b) Rendering a false alarm is a Class A misdemeanor."

Section 2. Section 640 of said Act No. 607, S. 33, Regular Session 1977, is repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-665

H.J.R. 296—Turnham

HOUSE JOINT RESOLUTION

CREATING A JOINT LEGISLATIVE COMMITTEE ON ENERGY.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby created a joint legislative committee which shall be known as the "joint legislative committee on energy." The committee shall function from the date of its appointment until the end of the 1982 regular session of the legislature.

The joint committee shall be composed of ten members, including the lieutenant governor and the speaker of the house, four members from the senate to be appointed by the lieutenant governor and four members from the house of representatives to be appointed by the speaker of the house. The chairman shall be designated by the speaker in odd numbered years and by the lieutenant governor in even numbered years. The vice chairman shall be designated by the lieutenant governor in odd numbered years and by the speaker in even numbered years.

The joint committee shall employ such staff as it deems necessary to conduct its business pursuant to this resolution. The staff may be composed of a staff director and such technical, legal, clerical, and stenographic assistants as the chairman and vice

chairman determine.

The joint committee shall have the following responsibilities and duties:

(a) examine the statutes, constitutional provisions, regulations and court decisions governing energy and recommend legislation or changes if any are found to be necessary to the legislature;

(b) continuously evaluate the energy policies and programs of the state;

(c) have the power to introduce bills and act as a committee of reference for bills affecting or relating to the energy activities of the state; and

(d) act in any capacity authorized by the speaker of the house and lieutenant governor.

The members of the committee shall be entitled to their regular pay and per diem expenses, including mileage, for each day in which they are engaged in committee work. Such pay and expenses shall be paid out of any available funds appropriated for use of the legislature. Provided, that the total expenditures of the committee shall not exceed \$7,000 per year.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-666

H. 18—Drinkard

AN ACT

To further amend Code of Alabama, 1975 Section 40-14-70, which pertains to the taxation of corporate shares of stock by providing in the first paragraph for assessment at twenty percent rather than thirty percent; by adding the word, "tangible", before the word, "personal"; by rewriting the section beginning with the second paragraph herein to place the provisions of the section in orderly sequence and in consonance with the amendments that have been previously made to the section; by adding the word, "total" before the word, "value"; by omitting the words, "assessed value", and retaining the words, "book value"; by changing the word, "thirty", to "twenty"; replacing the word, "total", with the word, "assessed"; by adding the phrase, "taxable real and tangible personal property owned, assessed, and on which taxes are to be paid by the corporation as shown by such tax return filed by the corporation in the State of Alabama"; by adding the word, "tangible", before the word, "personal" where appropriate; and by changing the word, "taxation", to the word, "stock"; by changing the provisions for deductions of air or water pollution control devices where the air or water pollution control was caused by the domestic corporation; by allowing a deduction for inventory from such taxation.

Be It Enacted by the Legislature of Alabama:

Section 1. Code of Alabama, 1975 Section 40-14-70, is amended to read as follows:

Section 40-14-70.

(a) Every share of any domestic corporation except:

(1) Financial institutions which comply with the provisions of this title as to the excise taxes herein levied on such financial institutions (financial institutions within the meaning of this section and as expressly exempted from the provisions hereof are hereby defined as follows: Any corporation or any legal entity whatever doing business in this state as a bank, banking association, trust company, industrial or other loan company, building and loan association and any other corporation or institution employing money capital coming into competition with the business of national banks); and

(2) Insurance companies which are subject to the provisions of this title as to premium taxes herein levied on such insurance companies and which shall be exempt from the tax assessed hereunder, shall be assessed and the taxes thereon collected in the county wherein such corporation has its home or principal office in the state and shall be assessed at twenty percent of its value to the person in whose name such shares stand on the books of the corporation and not to the corporation.

(b) In the event the excise tax levied by this title upon such financial institutions be declared unconstitutional, the tender to the Department of Revenue of such excise tax despite such unconstitutionality shall be a bar to any demand, claim, levy or assessment, of any ad valorem tax under this section.

(c) The president or managing officer of every such corporation shall make out and return under oath to the tax assessor and to the Department of Revenue a list showing the total number of shares of the capital stock of such corporation and the par value thereof, the full name and residence of each stockholder, as far as known, the actual value thereof, the date of the last sale of shares of stock of such corporation, with the name of the seller and the purchaser and the price paid for same, and the annual dividend declared on the stock of such corporation for the last three years, and the value of the shares as shown by the books of the corporation and by the last report of the officers to the shareholders, and the amount of surplus, and the amount of the undivided profits not included in the surplus and such other information as may be required by the Department of Revenue. There shall be attached to the copy of the return made to the Department of Revenue a true

balance sheet as shown by the books, showing the condition of such corporation at the close of its fiscal period next preceding October 1 of the year for which the assessment is to be made. Such corporations shall at the same time make a tax return sworn to by its president or manager to the Department of Revenue and to the county tax assessor on forms prescribed and furnished by the Department of Revenue of all taxable property, real and tangible personal, situated in the state and owned by such corporation.

(d) The Department of Revenue after determining the total value of the shares of capital stock shall deduct from the total value of such shares

(1) the assessed value of real and tangible personal property owned in other states, and the book value of all devices, facilities, or structures, and all identifiable components thereof, or materials for use therein, designed or constructed primarily for the control, reduction, or elimination of air or water pollution in this state; and used by the domestic corporation primarily for the control, reduction or elimination of air or water pollution where such air or water pollution has been caused by the domestic corporation claiming the deduction.

(2) The book value of goods, wares and merchandise held for sale.

(e) The Department of Revenue after determining the total value of the shares of stock remaining for assessment shall take twenty percent thereof, which shall be the assessed value of the shares of said corporation.

(f) After the assessed value of all the shares has been passed on and determined, the Department of Revenue shall deduct from the assessed value of such shares

(1) the assessed value of the taxable real and tangible personal property owned, assessed, and on which taxes are to be paid by the corporation as shown by such tax return filed by the corporation in the State of Alabama, or as finally determined. Provided, however, that should the assessed value of the real and tangible personal property as shown by such tax return differ from the assessed value of the real and tangible personal property as finally determined by the taxing authorities required to assess such property, or in case of appeal, as finally determined by the court of last resort, the same shall not affect the assessed value of all the shares of the corporation as fixed by the Department of Revenue.

(g) After deducting the assessed value of the real and tangible personal property located in the State of Alabama, any remainder

shall constitute the residue of said shares of stock of said corporation. The residue divided by the whole number of shares will constitute the assessment for each share of stock.

(h) Whenever the Department of Revenue shall have passed on the valuation and assessment of the shares of any domestic corporation as herein provided, it shall give notice in writing by certified mail, return receipt demanded, to the president or managing officer or person signing the tax return for the corporation, or if no return has been made, then such notice to be addressed to any officer of the corporation against whose shares the assessment has been made, giving notice of the valuation and assessment, stating that on a day specified, it will determine any complaint against said valuation, which notice must be served at least ten days before the day specified for a final determination of the assessment. Upon hearing the complaint of protest against any valuation or assessment of the shares of the domestic corporation or if there has been no complaint or objection filed on or before the date specified in the notice for determination of such matter, the Department of Revenue shall proceed to determine and fix the value of such shares and complete the assessment thereof.

(i) It being the meaning and intent of this section that the assessed value of all the shares of the corporation be fixed by the Department of Revenue and that there be deducted therefrom the correct assessed value of the real and tangible personal property of the corporation when the same shall finally be determined. Provided, however, that if any property owned by a corporation which property is subject to taxation in this state is omitted from the tax return filed by said corporation, the same shall be assessed as an escape item or items of taxation in the same manner as escaped property of individuals and the value of such omitted property shall not be deducted from the value of the shares of stock of the corporation as assessed for taxation. If the aggregate assessed value of the shares does not exceed the aggregate assessed value of the real and tangible personal property of the corporation, then no tax shall be demanded or collected on the shares.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or its otherwise becoming law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-667 H. 508—Williams, Ray, Carothers,
Grimsley, Ward, Whatley,
Laird, Biddle, Holley

AN ACT

To amend Sections 2-15-20, 2-15-27 and 2-15-28, Code of Alabama 1975, relating to the branding of livestock so as to include tattoo marks on the hide or in the ear in the definition of the word "Brand." It provides that regulations promulgated by the commissioner of agriculture which will facilitate the tracing and identification of lost, stolen or estrayed livestock shall include information on the tracing and identification of swine by brands, tattoos or other means.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 2-15-20, 2-15-27 and 2-15-28, Code of Alabama 1975, are hereby amended to read as follows:

"§ 2-15-20.

"When used in this article, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

"(1) **COMMISSIONER.** The commissioner of agriculture and industries of the state of Alabama.

"(2) **DEPARTMENT.** The department of agriculture and industries of the state of Alabama.

"(3) **BOARD.** The state board of agriculture and industries of the state of Alabama.

"(4) **BRAND.** Any recorded identification mark applied to any position on the hide of livestock by means of heat, acid or a chemical, except numbers used to keep production records or record of age. The word 'brand' shall also mean and include tattoo marks on the hide or in the ear of livestock.

"(5) **LIVESTOCK.** Cattle, swine and horses.

"(6) **PERSON.** Any individual, partnership, corporation or association.

"(7) **LIVESTOCK MARKET.** A place where a person assembles livestock for public sale, if such person is required to procure a license or permit from the state department of agriculture and industries to operate such market.

"(8) **LIVESTOCK HIDE DEALER.** Any dealer who buys hides of livestock.

"§ 2-15-27.

“(a) Every operator of a livestock market where livestock are received and sold shall keep a copy of the register of livestock brands in his place of business where it will be easily accessible for public inspection during business hours.

“(b) The operator of every livestock market where livestock are received and sold, together with those livestock dealers, slaughterers and butchers buying livestock for resale or for slaughter which livestock were not purchased at a livestock market, shall obtain and keep or cause to be kept a record for at least two years covering all livestock received, which shall show thereon the name and address of the owner, the number of animals received, the date of receipt and a description of such livestock, together with the license number of the vehicle with the name and address of the driver thereof or the railroad waybill number or record of other method of transportation by which the livestock arrived. These records shall be retained by every such livestock market, dealer or slaughterer required to keep such records and shall be made easily accessible for public inspection for a period of two years after the livestock are received by such livestock market, dealer or slaughterer. Livestock dealers required to keep records under this subsection shall be those dealers required to be licensed under article 6 of this chapter.

“(c) Livestock hide dealers shall keep records of cattle hides received by them to facilitate the tracing of lost or stolen livestock. Livestock hide dealers shall keep a record of all such hides which shall include the name and address of the person from whom hides are purchased, a description of the hides, brands and any other indentifying information appearing thereon. Livestock hide dealers shall keep such records for public inspection for a period of two years after receipt of such hides.

“§ 2-15-28.

“(a) The commissioner, with the approval of the board, shall have authority to promulgate such rules and regulations as are reasonably necessary to carry out the evident intent and purposes of this article and which will facilitate the tracing and identification of lost, stolen or estrayed livestock and afford protection against the theft and unlawful dealing, handling or movement of livestock, including a system for brand registrations, transfer of brands, reregistrations and standards or requirements for brands acceptable for registration, which regulations will effectuate the purposes of this article. Such rules and regulations promulgated by the commissioner shall include information on the tracing and identification of lost, stolen or estrayed swine to be identified by

brands, tattoos or other means.

“(b) The commissioner, with the approval of the board, pursuant to rules and regulations, shall be authorized to designate positions on which livestock may be branded, not to exceed eight such positions.”

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-668

H. 562—Roberts, Patton

AN ACT

To amend section 22-27-5 of the Code of Alabama 1975 which relates to the authority of localities to establish fees and enter into mutual agreements or contracts in connection with solid waste disposal, so as to further provide remedies for the nonpayment of fees.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 22-27-5 of the Code of Alabama 1975 is hereby amended to read as follows:

“§ 22-27-5. (a) Fees, etc.; mutual agreements or contracts. The county commission or municipality undertaking the responsibility for providing services to the public under this article may establish fees, charges and rates and may collect and disburse funds within cooperating areas or districts, inside or outside the corporate limits of municipalities or inside or outside of county boundaries, for the specific purpose of administering this article and providing and operating a solid waste program. Also, said county commission or public authority may enter into mutual agreements or contracts with the government bodies of other counties, municipalities, corporations or individuals, where deemed to be mutually economical and feasible, to jointly or individually collect, haul and/or dispose of solid wastes generated within the cooperating area. All contracts or mutual agreements under this article shall be subject to review by the health officer, and all such contracts and agreements shall be subject to cancellation upon 30 days' notice from said health officer any time said contracts or agreements fail to be in the best interest of the health, safety and welfare of the citizens residing in the affected

area.

“(b) Private or corporate agencies. Individuals, corporations, partnerships or other agencies engaging in the collection and disposal of solid wastes are subject to this article. Governing bodies may assign territories, approve or disapprove disposal sites, with the concurrence of the health department, and shall establish and collect annual license fees from such firms and set rate schedules if a service fee is charged.

“(c) Permits and bonds. Under subsection (b) of this section, no license shall be granted or fee collected without a permit issued by the state or county health department, renewable annually at the time licenses are due. Such permit shall be based upon performance and may be revoked for cause, including failure to perform under the provisions of this article and regulations adopted under authority of this article. No license shall be granted without the posting of a performance bond satisfactory to the governing body.

“(d) Nonpayment of fees, etc. Any county commission or municipality establishing fees, charges and rates pursuant to subsection (a) of this section shall have the power and authority to adopt resolutions or ordinances providing that if the fees, charges or rates for the services furnished by the county commission or municipality, under the provisions of said chapter, shall not be paid within 30 days after the same shall become due and payable, such county commission or municipality may, at the expiration of such 30-day period, suspend such services or may proceed to recover the amount of any such delinquency with interest in a civil action, or both.

“(e) Any person, or persons, furnishing services under agreement with any county commission or public authority, under the provisions of this section, who shall not be paid within 30 days after the charges shall come due, may, at the expiration of such 30-day period, suspend such service or may proceed to recover the amount of such delinquency with interest in a civil action, or both.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-669

H. 792—Gafford

AN ACT

To amend Code of Alabama 1975, Section 36-7-20 and 37-7-22 relating to various expense allowances for state employees so as to provide that the Governor may increase the mileage allowances and per diem allowances for such employees.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 36-7-20 and 36-7-22 of Code of Alabama 1975 are hereby amended to read as follows:

“Section 36-7-20. The maximum amount allowable to a person traveling inside the state of Alabama in the service of the state or any of its departments, institutions, boards, bureaus, commissions, councils, committees or other like agencies for expenses other than transportation may be fixed by the governor at not less than \$25.00 nor more than \$40.00 per day, and such maximum or limit when fixed from time to time shall be uniform in operation as to all persons traveling within the state on official business. However, members of the legislature shall be excluded from the provisions of this section.

No travel allowance shall be paid for a trip of less than six hours' duration. For travel which does not require an overnight stay, the traveler shall be paid a meal allowance of \$5.00 for a trip of from six to 12 hours' duration, and for travel in excess of 12 hours' duration the traveler shall be paid one such meal allowance and one-fourth of the per diem allowance.

The per diem allowance provided for in this section shall not be paid to an employee stationed at the same place in the state for a period in excess of two consecutive months. After two consecutive months the amount of the allowance shall be reduced to \$25.00 per day; provided, that the provisions of this section shall not apply to officers and employees of the state of Alabama when they incur expenses representing the state of Alabama in the encouragement and promotion of trade or industrial development; and, on such occasions, when such representation is properly approved, such persons shall be reimbursed for the actual expenses incurred and paid by them; provided further, that such representation must be approved in advance in writing by the governor or by the director of finance when so designated by the governor.

The provisions of this section shall not apply to examiners or other persons designated by the superintendent of insurance to examine or cause to be examined the domestic insurance corporations qualified in this state when the expense incurred by such persons shall be paid by or collected or received from such

corporations examined under the provisions of section 27-2-25."

Section 36-7-22. Persons traveling on official business for the state or any of its departments, institutions, boards, bureaus, commissions, councils, committees or other like agencies in privately owned vehicles shall receive up to \$.20 per mile in lieu of their actual expenses for transportation. The exact amount shall be fixed by the Governor but in no instance shall such expense be less than \$.15 per mile."

Section 2. Any increase granted by the Governor under permission of this act shall apply equally to all persons traveling inside the state in the service of the state or any of its departments, institutions, boards, bureaus, commissions, councils, committees or other like agencies.

Section 3. All laws or parts of laws in conflict with this Act are hereby repealed.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-670

H. 814—Hines, Harper (T)

AN ACT

To indemnify the commissioner of the board of corrections, deputy commissioners, members of the board of corrections, and other officers, employees and agents of the board of corrections for acts arising out of and performed in connection with their official duties in behalf of the state of Alabama.

Be It Enacted by the Legislature of Alabama:

Section 1. As part of the consideration of the employment or appointment of the commissioner of the board of corrections, deputy commissioners of the board of corrections, members of the board of corrections and other officers, employees and agents of the board of corrections, whether part time or full time, the board of adjustment shall pay all final judgments awarded in courts of competent jurisdiction against the aforesaid commissioner, deputy commissioners, members of the board of corrections, officers, employees and agents, for acts arising out of and performed in connection with their official duties in behalf of the state of Alabama, except to the extent that such coverage may be provided

by an insurance carrier.

Section 2. Payment shall be limited to a maximum of \$100,000 for all claims arising out of the same act.

Section 3. No part of this act shall be admissible evidence in any court of law wherein any of the officers or persons indemnified herein are parties.

Nothing in this act shall be deemed to waive the sovereign immunity of the state with respect to a claim covered under this act or to authorize the payment by the state of any judgment or settlement against the aforesaid commissioner, deputy commissioners, members of the board of corrections, officers, employees and agents, to the extent that the same exceeds the sum of \$100,000.

Section 4. The provisions of this bill shall not apply to the commissioner, any deputy commissioner, any member of the board of corrections, and any other officer, employee and agent of the board of corrections who is found guilty of gross negligence or intentional or knowingly unlawful behavior.

Section 5. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this act are hereby repealed.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law. This act shall also apply to all applicable lawsuits filed in court on its effective date.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-671

H. 846—Carothers

AN ACT

To authorize each county in Alabama to issue and sell, for the purpose of financing the costs of erecting necessary public buildings, bridges and roads or for refunding purposes, interest-bearing tax anticipation warrants payable solely out of the special road, bridge and public building tax authorized to be levied by counties under § 215 of the Constitution of Alabama (as amended), to authorize the county commission of the issuing county (subject to certain specified conditions) to fix the terms and conditions on which such warrants may be issued and sold, to provide that

such warrants shall not be subject to the laws of the state relating to usury or limiting interest rates, that the provisions of § 11-8-10 of the Code of Alabama 1975, as amended, shall not apply to any such warrants and that such warrants may be issued without an election.

Be It Enacted by the Legislature of Alabama:

Section 1. Any county in the State of Alabama, in addition to all other powers which it may now have, is hereby authorized and empowered from time to time to authorize, issue and sell, for the purpose of financing the costs of erecting necessary public buildings, bridges or roads in such county, interest-bearing tax-anticipation warrants payable (as to both principal and interest) solely out of the special ad valorem tax authorized by § 215 of the Constitution of Alabama of 1901, as amended, to be levied for the erection of necessary public buildings, bridges or roads, such warrants to be in such denomination or denominations, to have such maturity or maturities (not exceeding thirty (30) years from their date), to bear interest at such rate or rates and payable at such time or times, to be made payable at such place or places (whether within or without the State) and to be sold at such time or times, in such manner (whether publicly or privately) and at such price (not less than ninety-five per cent (95%) of their par or face value plus accrued interest) as the county commission of such county shall determine. Warrants may be issued under the provisions of this act, in anticipation of the issuance and sale of longer-term warrants to be issued hereunder, to provide for the temporary financing of the costs of erecting necessary public buildings, bridges or roads, in which event so much of the proceeds from the sale of such longer-term warrants as shall be necessary for such purpose shall be used to pay and retire the principal of and the interest accrued on such shorter-term warrants.

Section 2. As security for payment of the principal of and the interest on any warrants issued under the provisions of this act, the issuing county is authorized to assign and pledge so much as may be necessary for such purpose of the proceeds of the tax out of which such warrants are required to be payable. All such pledges shall take precedence in the order in which they are made unless in the proceedings authorizing such warrants the right is reserved to issue other bonds, warrants or securities on a parity therewith as respects such pledge.

Section 3. Any county in the State of Alabama may from time to time authorize, sell and issue refunding warrants for the purpose of refunding any outstanding warrants theretofore issued under the provisions of this act (whether or not the principal of the outstanding warrants to be refunded shall have matured at the

time of the issuance of the refunding warrants). Refunding warrants may not, however, be issued in a principal amount that will result in the principal proceeds to be derived by the issuing county therefrom exceeding the sum of (a) the outstanding principal of the warrants being refunded, (b) the interest thereon accrued to the date of issuance of such refunding warrants, (c) the interest to accrue on such outstanding warrants to their respective maturities or to the earliest date on which they may, under their terms, be redeemed (whichever is earlier), (d) any premium necessary to redeem or retire the outstanding warrants being refunded, and (e) the expenses estimated to be incurred by the issuing county in connection with the sale and issuance of such refunding warrants. Warrants may also be issued under the provisions of this act for the combined purpose of so refunding any such outstanding warrants and financing the costs of erecting necessary public buildings, bridges and roads, in which event those provisions of this section relating to refunding warrants shall apply to that portion of such combined issue being issued for refunding purposes. All the provisions of this act relating to warrants issued to finance the costs of erecting necessary public buildings, bridges or roads shall be applicable to warrants issued solely or partly for refunding purposes.

Section 4. Any warrants issued by a county under the provisions of this act are hereby exempted from the laws of the State of Alabama governing usury or prescribing or limiting interest rates, including (without limitation) the provisions of Chapter 8 of Title 8 of the Code of Alabama 1975, as amended.

Section 5. Insofar as the provisions of this act may be inconsistent with the provisions of any other law, the provisions of this act shall control, it being hereby specifically declared that (a) the provisions of § 11-8-10 of the Code of Alabama 1975, as amended, shall not be applicable to any warrants issued under the provisions of this act, and (b) that no approval of the qualified voters of a county shall be required in order for such county to authorize, sell or issue warrants under the provisions of this act.

Section 6. The provisions of this act shall be severable. In the event any section or provision hereof shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other section or provision hereof.

Section 7. This act shall become effective upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-672

S. 247—Callahan

AN ACT

To amend Sections 23-1-271 through 23-1-273 and 23-1-280 of the Code of Alabama 1975, as amended, relating to the "Highway Beautification Act - Outdoor Advertising," so as to delay the removal of all non-conforming motorist directional signs until all other non-conforming signs have been removed and to provide exemption from removal for certain motorist directional signs where such removal would cause a substantial negative economic impact in a defined area, and to ensure that in situations where just compensation must be paid for sign removal, that payment is made by the responsible removing authority; and to provide an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 23-1-271 through 23-1-273 and 23-1-280 of the Code of Alabama 1975, as amended, are hereby amended to read as follows:

"§ 23-1-271. For the purposes of this division, unless otherwise indicated, the following terms shall have the meanings respectively ascribed to them by this section:

"(1) **Business Area.** Any part of an adjacent area which is at any time zoned for business, industrial or commercial activities under the authority of any law of this state; or not zoned, but which constitutes an unzoned commercial or industrial area as defined in this section.

"(2) **Centerline of the highway.** A line equidistant from the edges of the median separating the main-traveled ways of a divided highway, or the centerline of the main-traveled way of a nondivided highway.

"(3) **Director.** The State of Alabama highway department.

"(4) **Adjacent area.** An area which is adjacent to and within 660 feet of the nearest edge of the right-of-way of any interstate or primary highway, which 660 feet distance shall be measured horizontally along a line normal or perpendicular to the centerline of the highway.

"(5) **Erect.** To construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish, but it shall not include any of the foregoing activities

when performed as an incident to the change of advertising message or customary maintenance of the sign structure.

“(6) Interstate highway. Any highway at any time officially designated as a part of the national system of interstate and defense highways by the director and approved by the appropriate authority of the federal government.

“(7) Maintain. To allow to exist.

“(8) Primary highway. Any highway, other than an interstate highway, at any time officially designated as a part of the federal-aid primary system by the director and approved by the appropriate authority of the federal government.

“(9) Sign. Any outdoor advertising sign, display, device, notice, figure, painting, drawing, message, placard, poster, billboard, or other thing, which is designed, intended or used to advertise or inform any part of the advertising or informative contents of which is visible from any place on the main-traveled way of any portion of an interstate highway or primary highway.

“(10) An unzoned commercial, business or industrial area. The land occupied by the regularly used building, parking lot, storage or processing area of a commercial, business, or industrial activity, and the land within 600 feet thereof on each side of the highway. The unzoned area shall not include:

“a. Land on the opposite side of an interstate or primary freeway highway from an unzoned commercial, business, or industrial area as defined above;

“b. Land predominantly used for residential purposes;

“c. Land zoned by state or local law, regulation or ordinance;

“d. Land on the opposite side of a non-freeway primary highway which is determined scenic by the department of highways.

“All measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the commercial or industrial activities, not from the property lines of the activities, unless said property lines coincide with the limits of the regularly used buildings, parking lots, storage or processing areas and shall be along or parallel to the edge or pavement of the highway.

“(11) Commercial or industrial activities for purposes of unzoned industrial and commercial areas. Those activities generally recognized as commercial or industrial by local zoning

authorities in this state, except that none of the following activities shall be considered commercial or industrial.

- “a. Outdoor advertising structures;
- “b. Agricultural, forestry, ranching, grazing, farming and similar activities, including but not limited to, wayside fresh produce stands;
- “c. Activities normally or regularly in operation less than three months of the year;
- “d. Transient or temporary activities;
- “e. Activities not visible from the main-traveled way;
- “f. Activities more than 660 feet from the nearest edge of the right-of-way;
- “g. Activities conducted in a building principally used as a residence;
- “h. Railroad tracks and minor sidings; or
- “i. Areas which are predominantly used for residential purposes.

“(12) Safety Rest Areas. An area or site established or maintained within or adjacent to the right-of-way by or under public supervision or control for the convenience of the traveling public.

“(13) Information Center. An area or site established or maintained at safety rest areas for the purpose of informing the public of places of interest within the state and providing such other information as the director may consider necessary.

“(14) Main-traveled Way. The through traffic lanes exclusive of frontage roads, auxiliary lanes and ramps.

“(15) Urban Area. An urbanized area so designated by the bureau of the census, within boundaries fixed by responsible state and local officials, subject to approval by the secretary of the United States department of transportation, or an urban place as designated by the bureau of the census having a population of five thousand or more and not within any urbanized area, within boundaries fixed by responsible state and local officials, subject to approval by the secretary of the United States department of transportation.

“(16) Motorist Directional Signs. Any signs, displays or devices giving directional information pertaining to food services,

lodging, gasoline and automotive services, resorts, attractions, campgrounds, truck stops, natural wonders, scenic and historical sites, and areas suited for outdoor recreation.

“(17) Removing Authority. Any governmental entity.

23-1-272. Declaration of policy.

“The legislature hereby finds and declares:

“(1) That outdoor advertising is a legitimate commercial use of private property adjacent to roads and highways;

“(2) That the erection and maintenance of outdoor advertising signs, displays and devices in areas adjacent to interstate highways and primary highways should be regulated in order to protect the public investment in such highways, to promote the recreational value of public travel, to preserve natural beauty and to promote the reasonable, orderly and effective display of such signs, displays and devices;

“(3) That outdoor advertising in an integral part of the business and marketing function and an established segment of the national economy and should be allowed to operate in business areas; and

“(4) Regulatory standards set forth in section 23-1-274 are consistent with customary use in this state and will properly and adequately carry out each and all of the purposes of this division.

“(5) Motorist directional signs are essential to the economic interests of the state and the interests of the traveling public; therefore, no motorist directional sign, not otherwise permitted under section 23-1-273, shall be removed on a statewide basis, unless by mutual agreement between the sign owner and the state highway department, until all other non-conforming signs are removed.

23-1-273. No sign shall, subject to the provisions of section 23-1-274, be erected or maintained in an adjacent area after February 10, 1972, nor shall any outdoor advertising sign, display or device with the purpose of its message being read from the main traveled way of an interstate highway or primary highway, be erected after April 11, 1978, outside of an urban area beyond 660 feet of the nearest edge of right-of-way of an interstate or primary highway, except the following:

“(1) Directional and official signs, including but not limited to, signs pertaining to natural wonders, scenic and historical attractions, safety rest areas and information centers, which are

authorized by the director, under promulgated rule, and which comply with regulations promulgated by the director relative to their lighting, size, number, spacing, and other such requirements as may be appropriate to implement this division, provided, that such regulations shall not be inconsistent with, nor more restrictive than, such national standards as may be promulgated from time to time by the secretary of transportation of the United States pursuant to subsection (c) of section 131, of Title 23, United States Code.

“(2) Signs lawfully in existence on October 22, 1965, determined by the state, subject to the concurrence of the United States secretary of transportation, to be landmark signs, including signs on farm structures or natural surfaces, of historic or artistic significance, the preservation of which would be consistent with the purposes of this section.

“(3) Signs advertising the sale or lease of property upon which they are located.

“(4) Signs advertising activities conducted on the property on which they are located. For the purpose of this subdivision, the promotion of activities at other locations or the dissemination of information about activities conducted upon other property shall not be considered activities conducted on the property on which a sign is located.

“(5) Signs located in business areas on February 10, 1972, and signs to be erected in business areas subsequent to February 10, 1972, which when erected, will comply with the provisions of section 23-1-274; provided that no advertising, sign, display or device with the purpose of its message being read from the main traveled way shall be erected after April 11, 1978, outside an urban area beyond 660 feet of the edge of the right-of-way of an interstate or primary highway, whether located in a business area or not.

“(6) Signs or devices which advertise or designate exclusively the location of the facilities of any public utility located along the interstate or primary highway for the convenience or protection of the using public or the protection of the facilities of the public utility.

“(7) Motorist directional signs lawfully erected and in existence on May 5, 1976, which do not conform to requirements of present state laws and whose removal would work a substantial economic hardship in a specific or defined area. The state highway department, upon receipt of a petition, declaration or resolution from any state, county or municipal agency, or from any industry

association or any group of private business persons or their employees, claiming that the removal of such motorist directional signs, would work a substantial economic hardship in specific or defined areas, shall forward such petition, declaration or resolution to the United States secretary of transportation to approve retention of such motorist directional signs.

23-1-280. Just compensation shall be paid by the removing authority upon the removal of any of the following signs which are not then in conformity with the provisions of this division whether or not removed pursuant to or because of the provisions of this division:

“(1) Signs lawfully in existence on February 10, 1972.

“(2) Signs lawfully in existence on land adjoining any highway made an interstate or primary highway after February 10, 1972.

“(3) Outdoor advertising signs, displays or devices erected with the purpose of their message being read from the main traveled way of any interstate highway or primary highway erected outside of an urban area and beyond 660 feet of the edge of the right-of-way of such interstate or primary highway erected prior to April 11, 1978, and not otherwise lawful under section 23-1-273, as amended.

“(4) Signs lawfully erected on or after February 10, 1972.

Section 2. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. The provisions of this Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law, except as otherwise herein provided.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-673

S. 321—Vacca

AN ACT

To amend Section 32-5-2, Code of Alabama 1975, so as to require owners of real property used for public vehicular travel to meet certain traffic control requirements.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 32-5-2, Code of Alabama 1975, is hereby amended to read as follows:

“§ 32-5-2.

“Nothing in this chapter shall be so construed as to prevent the owner of real property used in public for purposes of vehicular travel by permission of the owner and not as matter of right, from prohibiting such use nor from requiring other or different or additional conditions than those specified in this chapter or otherwise regulating such use as may seem best to such owner. Provided, however, when the owner of real property allows said real property to be used by the public for the purpose of vehicular travel, and/or as a Quasi-public parking lot for the use of customers tenants or employees of said property, the owner of said real property shall erect and maintain all traffic control devices thereon in strict accordance with the rules and regulations in effect in the local jurisdiction and in conformance with the Alabama Manual on Uniform Traffic Control Devices and any revisions thereof.

Nothing herein contained, however, shall be construed to compel the State or local governmental jurisdiction to maintain such Quasi-public parking areas and lots or to install or maintain any traffic control device therein and thereon.

The owner of said real property shall be required to meet the requirements of Section 32-5-31 (a) Code of Alabama 1975 with respect to local authorities in their respective jurisdictions.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-674

S. 347—Vacca

AN ACT

TO AUTHORIZE THE MAYOR OR OTHER CHIEF EXECUTIVE OFFICER OF ANY MUNICIPALITY IN THIS STATE TO APPOINT A PAROLE BOARD, ITS MEMBERS AND TERM OF OFFICE, AND TO PRESCRIBE DUTIES THEREOF AND OF PAROLE OFFICERS IN GRANTING AND REVOKING PAROLES AND WORK OF EDUCATIONAL RELEASES; TO CONFER POWERS OF ARREST UPON PAROLE OFFICERS, WITH OR WITHOUT WARRANT.

Be It Enacted by the Legislature of Alabama:

Section 1. MAYOR MAY APPOINT PAROLE BOARDS CONSISTING OF FIVE MEMBERS.

The mayor, or the chief executive officer if there is no mayor, of any municipality of this state having a municipal court may appoint a parole board consisting of five members, one of whom he shall designate to serve at his pleasure as chairman, and such chairman, shall if in attendance, preside at all meetings of the board. In the chairman's absence, an acting chairman shall be selected by a majority of the members present. One member of the initial board shall be appointed to serve a term of six years. Two members of the initial board shall be appointed to serve four year terms and two member of the initial board shall be appointed to serve two year terms. Thereafter all members of the board shall be appointed for six year terms.

Section 2. MEETINGS OF THE BOARD.

Meetings of the board shall be held on the first and third Wednesdays of each month and at the call of the chairman, when the business of the board shall warrant additional meetings. Three members of the board shall constitute a quorum for the transaction of the business of the board, and no action shall be taken by the board without the approval of at least two of its members.

Section 3. AUTHORITY AND DUTIES OF BOARD.

The board may remit fines and such costs as are payable to the city, and commute any sentence imposed by the municipal court or any court to which an appeal is taken, may grant paroles and work and educational releases, prescribe the terms upon which persons are paroled or released and may provide for the supervision of persons released on parole. Any period of parole may exceed the length of sentence but shall in no event exceed two years. Failure of any parolee to observe the conditions of his parole as prescribed by the board shall be sufficient cause for the board to revoke such parole.

The board's actions shall be in writing and shall be available to the governing body of such city and the mayor or other chief executive officer thereof.

Section 4. PAROLE OFFICER'S REPORTS: POWERS AND DUTIES.

Parole officers may be appointed to investigate all cases referred by the board to such officers and shall furnish to each parolee under his supervision a written statement of the conditions of his parole, instruct each parolee regarding the same, and keep

informed concerning the conduct and condition of each person on parole under his supervision. Each parole officer shall make such reports as the board may require. Each parole officer shall have, in the execution of his duties, the power of arrest and the authority to execute process as is given by law to police officers of such city. All reports, records and data assembled by any parole officer shall be privileged and shall not be available for public inspection except upon order of a court, except that in no case shall the right to inspect said reports be denied the defendant or his counsel.

Section 5. WORK AND EDUCATIONAL RELEASES.

Any prisoner released to work or further his education or training who violates any condition of his release as prescribed by the board may have such privilege revoked by the board. Any prisoner released to work or further his education or training who fails to return to city jail within the time prescribed by the parole board may, in addition, be deemed an escapee and shall be punished as such if said failure to return to city jail is wilful.

Section 6. WORK RELEASE - WAGES.

The employer of an inmate who is released from custody under a work release program shall pay the inmate's wages direct to the city finance department. The mayor of the city may adopt regulations concerning the manner of disbursing any earnings of the inmates involved in the work release program. The mayor is authorized to withhold from an inmate's wages the costs incident to the inmate's confinement as the mayor shall deem appropriate and reasonable, provided however, that in no event shall the mayor withhold more than twenty percent of such inmate's gross wages as the costs incident to such inmate's confinement. After the costs incident to the inmate's confinement have been deducted from the inmate's earnings, the remainder of the inmate's earnings shall be credited to the inmate's account with the city finance department, and upon his release from confinement shall be turned over to the inmate. The mayor is authorized, however, to pay the balance of the inmate's earnings to his family to be used by them for their support while the inmate is confined, provided the inmate has consented to such payment.

Section 7. DISCHARGE: ARREST FOR VIOLATION OF PAROLE; ARREST WITHOUT WARRANT, HEARING, REVOCATION.

Upon the expiration of the period of parole the parolee shall be discharged. At any time during the period of parole the parolee may be arrested for the violation of any condition of his parole, and

after a hearing by the board his parole shall be subject to revocation. Any parole officer, police officer or other law enforcement officer may arrest a parolee with or without a warrant for the violation of any condition of his parole. In case of an arrest without a warrant, the arresting officer shall have a written statement by a parole officer setting forth that parolee has, in the judgment of the parole officer, violated the conditions of his parole. Such statement shall be sufficient warrant for the detention of said parolee until he can be brought before a parole officer. Such parole officer, after advising said parolee in writing of the charged violation and hearing any evidence or explanation offered by parolee in his defense shall, if not satisfied from the evidence or explanation of the parolee, forthwith submit to the board a written report of such violation. Upon receipt of such report the board shall set a hearing date to determine if such parole shall be revoked. The parolee at such hearing may be represented by counsel and present evidence in his defense. In the event such parole is revoked, the board shall prepare a written opinion stating the evidence relied upon and the reason for such revocation. The parolee, upon such revocation, shall serve his sentence as though no parole had been granted him, notwithstanding his sentence would have ended but for the suspension thereof by parole.

Section 8. SEVERABILITY.

The provisions of this act are severable. If a part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 9. PROVISIONS CUMULATIVE.

The provisions of this act are cumulative to the provisions of any other laws and shall not be construed to repeal or supersede any laws not inconsistent herewith.

Section 10. EFFECTIVE DATE.

This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

To amend Title 44, Chapter 2 of the Code of Alabama 1975 by adding thereto The Interstate Compact on the Placement of Children.

Be It Enacted by the Legislature of the State of Alabama:

Section 1. Title 44, Chapter 2 Code of Alabama 1975 is hereby amended by adding thereto THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN, to consist of sections 44-2-8 through 44-2-14, as follows:

§ 44-2-8. Enactment of compact.—The Interstate Compact on the Placement of Children is hereby enacted into law and entered into with all other jurisdictions legally joining therein in form substantially as follows:

INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

ARTICLE I. Purpose and Policy

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

ARTICLE II. Definitions.

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

(b) "Sending agency" means a party state, or officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation,

association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

ARTICLE III. Conditions for Placement

(a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Prior to sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

- (1) The name, date and place of birth of the child.
- (2) The identity and address or addresses of the parents or legal guardian.
- (3) The name and address of the person, agency, or institution to or with which the sending agency proposed to send, bring, or place the child.
- (4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it

may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

ARTICLE IV. Penalty for Illegal Placement

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

ARTICLE V. Retention of Jurisdiction

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) hereof.

ARTICLE VI. Institutional Care of Delinquent Children

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

1. Equivalent facilities for the child are not available in the sending agency's jurisdiction; and

2. Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

ARTICLE VII. Compact Administrator

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE VIII. Limitations

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by his parent, step-parent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or non-agency guardian in the receiving state.

(b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

ARTICLE IX. Enactment and Withdrawal

This compact shall be open to joinder by any state, territory or

possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal had been given by the withdrawing state to the Governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

ARTICLE X. Construction and Severability

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

§§ 44-2-9. Financial responsibility.—Financial responsibility for any child placed pursuant to the provisions of the Interstate Compact on the Placement of Children shall be determined in accordance with the provisions of Article V thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of Sections 30-4-50 through Sections 30-4-82, Code of Alabama 1975 also may be invoked.

§§ 44-2-10. Appropriate public authorities.—The “appropriate public authorities” as used in Article III of the Interstate Compact on the Placement of Children shall, with reference to this state, mean the department of pensions and security of the state of Alabama and said department shall receive and act with reference to notices required by said Article III.

§§ 44-2-11. Receiving state authority identified.—As used in paragraph (a) of Article V of the Interstate Compact on the Placement of Children, the phrase “appropriate authority in the

receiving state” with reference to this state shall mean the commissioner of the department of pensions and security.

§§ 44-2-12. **Agreements.**—The officers and agencies of this state and its subdivisions having authority to place children are hereby empowered to enter into agreements with appropriate officers or agencies of or in other party states pursuant to paragraph (b) of Article V of the Interstate Compact on the Placement of Children. Any such agreement which contains a financial commitment or imposes a financial obligation of this state or subdivision or agency thereof shall not be binding unless it has the approval in writing of the commissioner of the department of pensions and security or his designated agent.

§§ 44-2-13. **Executive head defined.**—As used in Article VI of the Interstate Compact on the Placement of Children, the term “executive head” means the Governor. The governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

§§ 44-2-14. **Compact administrator.**—The commissioner of the state department of pensions and security shall be the compact administrator and, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator is hereby authorized, empowered and directed to cooperate with all departments, agencies and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or any supplementary agreement or agreements entered into by this state hereunder.

Section 2. This Act shall become effective January 1, 1980.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-676

S. 443—Gulledge

AN ACT

To further regulate architects and the practice of architecture and to repeal sections 34-2-1 through 34-2-24, Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. Definitions:

As it is used in this Act, the term "architect" shall mean an individual who is legally qualified to practice architecture.

An individual engages in the "practice of architecture" within the meaning and intent of this Act when he holds himself out as able to render or when he does render any service by consultations, investigations, evaluations, preliminary studies, plans, specifications, contract documents and a coordination of all factors concerning the design and observation of construction of buildings or any other service in connection with the design, observation or construction of buildings located within the boundaries of the state, regardless of whether such services are performed in connection with one or all of these duties, or whether they are performed in person or as the directing head of an office or organization performing them. "Practice architecture" or "practicing architecture" shall mean performing or doing, or offering or attempting to do or perform any service, work, act or thing within the scope of the "practice of architecture."

An individual shall be construed to hold himself out as practicing architecture when, by verbal claim, sign, advertisement, letterhead, card or any other way, he represents himself to be an architect with or without qualifying adjective, or when he implies that he is an architect through the use of some other title.

The term "building" in this act shall be understood to be a structure consisting of foundation, walls or supports and roof, with or without other parts.

Section 2. DECLARATION OF POLICY: CONSTRUCTION OF CHAPTER: REGISTRATION REQUIRED. Architects and the practice of architecture are hereby declared to affect the public health, safety and welfare and to be subject to regulation and control in the public interest. It is further declared to be a matter of public interest and concern that the architectural profession merit and receive the confidence of the public and that only qualified architects be permitted to practice architecture in the State of Alabama. All provisions of this Act relating to the practice of architecture shall be liberally construed to carry out these objects and purposes.

In order to safeguard life, health and property, and to promote the public welfare, no person shall practice architecture in this state, or use the title "architect" or any title, sign, card, or device to indicate that such person is practicing architecture or is an architect unless such person shall thereafter comply with the

provisions of this Act.

Section 3. CERTAIN PERSONS EXEMPT FROM REGISTRATION: INTERPROFESSIONAL PRIVILEGES BETWEEN ARCHITECTS AND PROFESSIONAL ENGINEERS DEFINED. Nothing contained in this Act shall prevent: (a) Employees of registered architects from acting under the instructions, control or supervision of their employers; or, (b) the employment of superintendents of the construction or alteration of buildings.

No person shall be required to register as an architect in order to make plans and specifications for or administer the erection, enlargement or alteration of any building upon any farm for the use of any farmer, irrespective of the cost of such building, or any single family residence building or any utility works, structures or building (provided that the person performing such architectural works is employed by an electric, gas or telephone public utility regulated pursuant to the laws of Alabama or by a corporation affiliated with such utility), or of any other type building(s) whose total cost is less than \$50,000.00 except schools, churches, auditoriums or other buildings intended for the mass assemblage of people.

The services of a registered architect shall be required on all buildings except those hereinabove exempted and no official of this state or of any city, town or county herein charged with the enforcement of laws, ordinances or regulations relating to the construction or alteration of buildings, shall accept or approve any plans or specifications that are not so prepared.

Nothing in this Act shall prevent registered professional engineers or their employees or subordinates under their supervision or control from performing architectural services incidental to their engineering practice. Nothing in this chapter shall prevent registered architects or their employees or subordinates under their supervising control from performing engineering services incidental to their architectural practice.

No professional engineer shall practice architecture or use the designation "architect" or any terms derived therefrom unless that individual is registered pursuant to this Act. No architect shall practice professional engineering or use the term "engineer" or any term derived therefrom unless that individual is also qualified and registered as an engineer.

Section 4. CERTIFICATE OF REGISTRATION - APPLICATION; QUALIFICATIONS OF APPLICANTS; EXAMINATION; ISSURANCE; EXPIRATION; RENEWAL.

The Board shall receive applications for registration as an architect only on forms prescribed and furnished by said Board.

Upon receipt of such application and the payment of a fee, as established by the Board, for residents and non-residents, said fee in no event exceeding \$100.00 for residents and \$150.00 for non-residents, the Board shall promptly notify the applicant of examination requirements for certification.

The Board may issue to such applicant without further examination, a certificate of registration as an architect provided such applicant:

(a) Holds an unexpired certificate issued to him by proper authority in any state, territory or district of the United States, or any province of the Dominion of Canada, and, such expired certificate was issued based on requirements approved by the Board as substantially equivalent to those determined by this Act, or,

(b) Applicant has passed the appropriate examination and received a certificate of "National Council of Architectural Registration Boards."

Any disabled veteran of any war in which the United States had been or may be engaged, who is a resident of the state and submits evidence he has received from the United States Veteran Administration a certificate showing he has completed a rehabilitation course acceptable to the Board relating to the practice of architecture, and who passes an oral examination of a character to be determined by the Board, may be entitled to receive such certificate to practice architecture without further examination by said Board.

The following facts established in the application shall be regarded as prima facie "evidence" satisfactory to the Board that the applicant is fully qualified to be examined for certification:

(a) Graduation after a course of study of such length as the Board shall by regulation determine from a school or college of architecture accredited by the National Architectural Accrediting Board, and an additional period of practical experience in architectural work under the control and supervision of a registered architect or architects as the Board by regulation shall deem appropriate, or,

(b) Acceptable combinations of education and apprenticeship as may be established by the Board.

Such applicants must take and pass the professional

examination administered by the Board.

All applicants, not eligible for taking the professional examination or accepted for registration without the necessity for taking any examination under other terms of this act, shall pass satisfactorily, under rules and regulations fixed by the Board, a qualifying examination to be conducted by the Board. Such qualifying examination shall be conducted at least once a year. The examiners must promptly make reports and recommendations to the Board after each such examination.

In determining the sufficiency of the applicant's qualifications for registration, a majority vote of the members of the Board shall be required.

Certificates for registration shall expire on the 30th day of September following their issuance or renewal and shall become invalid on that day unless renewed.

Certificates of registrants who are or may be in the armed forces of the United States shall not expire until the 30th day of September following such registrant's discharge or final separation from the armed forces of the United States.

Renewal may be effected at any time prior to or during the month of September by the payment of a fee for bona fide residents of the State of Alabama and by the payment for a fee for non-residents of the State of Alabama, said fees to be established in the discretion of the Board, not to exceed \$50.00 for residents and \$75.00 for non-residents.

A penalty not to exceed the sum of \$25.00 may be added to the renewal fee for failure to renew a certificate upon such terms and conditions as the Board may by regulation determine.

Section 5. REFUSAL, REVOCATION OR SUSPENSION OF CERTIFICATE OF REGISTRATION: PROCEDURE THEREFOR. The Board shall have the power to refuse to issue certificate, to suspend a certificate for a definite period, or to revoke the certificate or registration of an architect who is found guilty of:

- (a) Any fraud or deceit in obtaining a certificate of registration as determined by the Board at a hearing; or,
- (b) Gross negligence, incompetency, or misconduct in the practice of architecture as determined by the Board at a hearing; or,
- (c) A felony or misdemeanor involving moral turpitude by a court of competent jurisdiction; or,

(d) Practicing architecture in this state in violation of the standards of professional conduct established by the Board; or,

(e) Practicing architecture in this or any other state or country in violation of the laws of that state or country; or,

(f) Aiding or abetting any individual, partnership or corporation to engage in the practice of architecture in violation of any provisions of law.

Notice of the nature of the charges placed against him and the time and place of hearing these charges by the Board must be sent to the accused by registered mail, with return receipt requested, and addressed to his last known place of business, or residence, not less than ten (10) days before the date fixed for such hearing. Said notice shall inform the individual that he is entitled to be represented by counsel of his choosing at the hearing, to have witnesses testify in his behalf at the hearing, to confront and cross-examine witnesses at the hearing and to testify in his own behalf at the hearing.

In all cases of refusal, suspension, or revocation of his certificate of registration, the accused may appeal to the Circuit Court of Montgomery County, Alabama. Either party, the accused or the Board, has the right to appeal from the final decree of the Circuit Court as provided by law.

Section 6. SEAL OF REGISTRANTS. Each registrant must obtain a seal of a design authorized by the Board bearing the registrant's name, the legend "Registered Architect(s)," the words "State of Alabama" and the registrants' license registration number.

Plans, specifications, plates and reports issued by a registrant must be stamped with the seal during the life of a registrant's certificate.

It shall be unlawful for anyone to stamp or seal any document with said seal after the certificate or the registrant named thereon has expired or been revoked.

It shall be unlawful for an architect or any other individual to stamp, to cause to be stamped or to allow to be stamped any document or documents which were not prepared under the supervision and control of the registered architect whose stamp is to be affixed thereon.

Section 7. UNLAWFUL ACTS AND PENALTIES THEREFOR: CIRCUIT COURT ACTION BY BOARD TO ENJOIN VIOLATIONS. On or after the effective date of this Act,

any person who knowingly, willfully, or intentionally violates any provision of this Act shall be guilty of a misdemeanor and shall be fined not less than \$100.00 nor more than \$5,000.00. Each day of such violation shall constitute a distinct and separate offense.

When it appears to the Board that any person is violating any of the provisions of this Act, the Board may in its own name bring an action in the Circuit Court for an injunction, and said Court of this State may enjoin any person from violating this chapter regardless of whether the proceedings have been or may be instituted before the Board or whether criminal proceedings have been or may be instituted.

Section 8. PRACTICE OF ARCHITECTURE BY CORPORATIONS OR PARTNERSHIPS. It shall be lawful for a corporation, a professional corporation or a professional association to practice architecture in this State provided that all officers and voting stockholders are architects or professional engineers registered under the laws of Alabama. Practice of said corporation, professional corporation or professional association shall be under the direct control of an officer who is a duly registered architect in this state and whose name shall appear on all documents of said corporation, professional corporation or professional association in its practice of architecture.

The name of such corporation, professional corporation or professional association shall not contain the names of former partners who, by virtue of death, retirement or resignation, are no longer active participants in the practice of architecture. Upon the death, retirement or resignation of any named partner, the name of the corporation, professional corporation, or professional association shall be re-named within two years in accordance with the provisions of this section.

Nothing herein contained shall apply to a corporation, professional corporation, or professional association legally practicing architecture in this State on September 7, 1967.

It shall be lawful for a partnership composed of architects and professional engineers registered under the laws of this State to practice architecture. Said partnership must include at least one architect. The practice of said partnership shall be under the direct control of a partner who is a duly registered architect in this State and whose name shall appear on all documents of said partnership in its practice of architecture.

The name of such partnership shall not contain the name of a former partner who, by virtue of death, retirement or resignation,

is no longer an active participant in the practice of architecture. Upon the death, retirement, or resignation of a partner, said partner's name shall be removed from the name of the partnership within two years in accordance with the provisions of this section.

Foreign corporations who do not otherwise comply with the provisions of this Act shall not practice architecture in the State of Alabama. However, an individual licensed to practice pursuant to this Act who is a member of a foreign corporation shall be allowed to practice in the State of Alabama so long as he does so in his individual name.

Section 9. BOARD FOR REGISTRATION OF ARCHITECTS - CREATION: COMPOSITION: APPOINTMENT: TERMS OF OFFICE: VACANCIES: RESIDENCY REQUIREMENTS. To carry out the provisions of this chapter, there shall be a state board for registration of architects, hereinafter referred to as the board, consisting of six members, each of who shall be appointed by the governor from a list of three persons selected as hereinafter provided.

All appointments as members of the board shall be architects registered and licensed under the provisions of this chapter, and said board shall be appointed from the following districts: one from the northern district; two from the north central district; two from the central district and one from the southern district. The northern district shall be comprised of the counties of Colbert, Cullman, DeKalb, Franklin, Jackson, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan and Winston; the north central district shall be comprised of the counties of Bibb, Blount, Calhoun, Cherokee, Clay, Cleburne, Etowah, Fayette, Greene, Hale, Jefferson, Lamar, Pickens, Randolph, Shelby, St. Clair, Sumter, Talladega, Tuscaloosa and Walker; the central district shall be comprised of the counties of Autauga, Barbour, Bullock, Butler, Chambers, Chilton, Coffee, Coosa, Covington, Crenshaw, Dale, Dallas, Elmore, Geneva, Henry, Houston, Lee, Lowndes, Macon, Marengo, Montgomery, Perry, Pike, Russell, Tallapoosa and Wilcox; and the southern district shall be comprised of the counties of Baldwin, Choctaw, Clark, Conecuh, Escambia, Mobile, Monroe, and Washington.

Thirty days prior to the expiration of a board member's term, or for filling a vacancy otherwise occurring, there shall be a nominating committee of six members selected by secret ballot from the district entitled to fill the vacancy, at a meeting in the district called by the secretary of the board who shall give notice in writing of the time and place of the called meeting to each architect

in the district at least 30 days in advance of the date set for said meeting and vote on the members to be placed on the committee. After the selection of the committee from the district where the vacancy occurs, there shall be a meeting of the committee with the board at the same place within five days to select by secret ballot the names of three persons which shall be sent to the governor by the secretary of the board. The governor shall thereupon appoint one of the persons to the board.

The term of office of the members of the board shall be four years and until their successors shall have been duly appointed and qualified.

A member must reside and have his principal office in the district from which appointed, and his place will become vacant if he should remove either his residence or principal office from that district.

Section 10. CERTIFICATES, PRIVILEGES AND POWERS OF THE BOARD: SEALS: BY-LAWS: RULES AND REGULATIONS: POWERS AND DUTIES GENERALLY. Each member of the Board shall receive a certificate of appointment from the Governor. Before beginning his term of office, each member of the Board shall file with the Secretary of State the constitutional oath of office.

The Board, of any committee thereof, shall be entitled to the services of the Attorney General in connection with the affairs of the Board, and the Board shall have the power to compel attendance of witnesses, to require production of documents, to administer oaths and to take testimony and proof concerning all matters within its jurisdiction.

The Board shall adopt and have an official seal which shall be affixed to all certificates of registration granted.

The Board shall have power and authority to make and adopt by-laws, rules and regulations consistent with law to comply with the provisions of this Act and to establish standards of professional conduct of architects.

The Board may adopt regulations setting minimum standards of continuing education to insure that all registered architects remain informed of those technical and professional subjects which the Board deems appropriate to professional architectural practice. The Board may by regulation describe the methods by which such standards may be satisfied, and may provide that failure to satisfy such minimum standards shall be grounds for non-renewal of his certificate of registration.

Section 11. ORGANIZATIONS; MEETINGS; QUORUMS; EMPLOYEES.

The Board shall hold at least two regular meetings each year.

The Board shall elect annually a chairman, who must be a member of said Board, and a Secretary, who may or may not be a member of said Board. The Board may, with the approval of the Governor, employ clerks, experts, attorneys and others, as may be necessary in the carrying out of the provisions of this Act.

The Board shall have the power, with the approval of the Governor, to fix the compensation of the Secretary and other employees.

A quorum of the Board shall consist of not less than a majority of the duly appointed Board members.

Section 12. RECEIPTS AND DISBURSEMENTS; COMPENSATION OF MEMBERS; EXPENSES; BOND OF CHAIRMAN AND SECRETARY. The Secretary of the Board shall receive and account for all monies derived from the operation of this Act. Such monies shall be certified into the treasury in a fund to be known as the "Fund of the Board for the Registration of Architects". Such fund shall be drawn against only for the purposes of this Act.

The fiscal year shall commence on the first day of October and end on the 30th day of September.

Each member of the Board shall receive a per diem as recommended by the Board consistent with applicable state laws for attending sessions of the Board or its committee, and for the time spent in necessary travel to attend meetings of said Board or its committee. In addition, each member of the Board shall be reimbursed for traveling and clerical expenses incurred in carrying out the provisions of this Act.

Expenses certified by the Board as properly and necessarily incurred in the discharge of its duties, including but limited to authorized compensations, additional legal services, experts, clerks, office rent and supplies, shall be paid out of said fund on the warrant of the comptroller of the State. Such warrant shall be issued on requisitions signed by the Chairman and Secretary of the Board. At no time in any fiscal year shall the total amount of warrants issued exceed the total amount of monies accumulated in this fund.

The Board may make donations from its surplus funds to any state educational institution which has an accredited school of

architecture for assistance in promoting education and research programs in architecture.

The Chairman and the Secretary of the Board shall give a surety bond in an amount no less than the previous year's budget payable to the State of Alabama and conditioned upon the faithful performance of their duties under this Act. The premium of said bond shall be paid out of the monies in the "Fund of the Board for the Registration of Architects".

Section 13. ANNUAL REPORT TO GOVERNOR. On or before January 1 of each year, the Board shall submit to the Governor a report of its transactions for the preceding fiscal year, together with a complete statement of receipts and disbursements of the Board for its last fiscal year, certified by the Chairman and the Secretary, and a copy of the said roster of registered architects. A copy of this report shall be filed with the Secretary of State.

Section 14. Sections 34-2-1 through 34-2-24 of the Code of Alabama 1975 and all laws or parts of law in conflict with this act are hereby repealed.

Section 15. If any part of this act is declared invalid, such declaration of invalidity shall not affect the part that remains.

Section 16. This act shall become effective immediately upon its passage and approval by the Governor, or its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-677

S. 572—White

AN ACT

To amend Sections 16-30-1 and 16-30-4, Code of Alabama 1975, relating to the immunization of school children, so as to require any student who has not been immunized upon initial entry into a school in Alabama, must show proof of immunization at the commencement of the next school year.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 16-30-1, Code of Alabama 1975, is hereby amended to read as follows:

"§ 16-30-1. The state health officer is authorized, subject to the approval of the state board of health, to designate diseases against which children must be immunized or for which they must

be tested prior to, or, in certain instances after entry into the schools of Alabama."

Section 2. Section 16-30-4, Code of Alabama 1975, is hereby amended to read as follows:

"§ 16-30-4. The boards of education and the governing authority of each private school shall require each pupil who is otherwise entitled to admittance to kindergarten or first grade, whichever is applicable, or any other entrance into an Alabama public or private school, to present a certification of immunization or testing for the prevention of those communicable diseases designated by the state health officer, except as provided in section 16-30-3. Provided, however, that any student presently enrolled in a school in this state, not having been immunized upon initial entrance to school, is hereby required to present a certification of immunization as described in this section upon commencement of the next school year. This act shall apply only to kindergarten through 12th grade and not to the institutions of higher learning."

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-678

H. 999—Naramore, Brakefield

AN ACT

To amend Section 2 of Act No. 115, H. 332, 1953 Regular Session (Acts of 1953, p. 164) entitled "An Act Relating to the Fourteenth Judicial Circuit; providing for the drawing and the summoning and service by mail of petit jurors in criminal, quasi-criminal and civil cases and persons drawn for jury service to compose grand juries in the Fourteenth Judicial Circuit and providing secrecy as to names and identity of persons drawn for petit or grand jury service and prescribing penalties for violation of this Act," so as to provide for jury summons by regular mail.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 2 of Act No. 115, H. 332, 1953 Regular Session (Acts of 1953, p. 164), is hereby amended to read as follows:

"Section 2. After the names of the persons have been so drawn by the judge and delivered to the Clerk of the Circuit Court of the Fourteenth Judicial Circuit, said Clerk shall make a list of such persons and issue summonses to the persons so drawn and serve the

same by regular mail. He shall enclose the summons to each person so drawn in an envelope addressed to such person and place all necessary postage thereon and post the same by regular mail. The Clerk shall thereupon mark the process executed and it shall be considered for all purposes as sufficient and legal service. In the event any summons so mailed by the Clerk shall be returned to him by the Post Office Department of the United States without delivery to the addressee, the Clerk shall then deliver such summons and a copy thereof to the Sheriff of Walker County, Alabama, and the Sheriff shall immediately make every reasonable effort to serve the same personally and make due return thereof to the Clerk and the Sheriff shall not disclose to any person the name of any person so summoned by him."

Section 2. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979.

Time: 6:00 P.M.

Act No. 79-679

H. 1000—Naramore, Brakefield

AN ACT

Relating to Walker County; assessing an additional fee for any criminal or misdemeanor proceeding in the circuit, district or juvenile court; providing for the collecting and disbursing of such funds; and prescribing that the revenue collected pursuant to the provisions of this act shall be paid into the county treasury for the juvenile court advisory committee.

Be It Enacted by the Legislature of Alabama:

Section 1. Any law, whether special, local or general to the contrary notwithstanding, in Walker County in addition to all other costs and charges in any criminal case or misdemeanor case, whose jurisdiction is in the district court, circuit court or juvenile court, specifically including traffic violations, an additional fee of four dollars (\$4.00) shall be charged and collected by the clerk of any such court. The monies derived from the charges herein prescribed shall be remitted to a fund designated "the juvenile court advisory committee fund" in the county treasury to be used to finance any group home, detention facility, shelter care facility, or provide for the physical needs of any child in the custody of the juvenile court or the department of pensions and security. Such funds shall be paid

from the county treasury to the committee in the same manner as other funds are payable to agencies of the county. The juvenile court advisory committee is hereby authorized to direct expenditures of said funds to carry out the provisions and purposes of this act.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-680

H. 1001—Naramore, Brakefield

AN ACT

To provide for a supplemental salary for the circuit judges and an expense allowance for the District Attorney of the Fourteenth Judicial Circuit; to be paid by the county comprising such circuit, to fix the amount and method of payment of such salary and expense allowance; and to provide that no retirement contributions shall be deducted from the District Attorney's expense allowance.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to the salary paid to each of the circuit judges of the Fourteenth Judicial Circuit by the state there shall also be paid to each of said judges a supplemental salary in the amount of \$9,250 annually. Such supplemental salary shall be paid out of the general fund of the county in equal monthly installments at the same time and in the same manner that the salaries of other county employees are paid. The supplemental salary herein provided for shall be in lieu of any other supplemental salary or expense allowance heretofore provided for by law to be paid by the county comprising such circuit.

Section 2. In addition to the salary paid to the District Attorney of the Fourteenth Judicial Circuit by the state there shall also be paid to the said district attorney an expense allowance in the amount of \$6,625, annually. Such expense allowance shall be paid out of the general fund of the county comprising such circuit in equal monthly installments at the same time and in the same manner that the salaries of other county employees are paid and no retirement contributions shall be deducted from such expense allowance. The expense allowance herein provided for shall be in lieu of any salary or expense allowance heretofore provided for by law to be paid by the county comprising such circuit.

Section 3. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this act are repealed; and Act 774 S. 638 which was approved May 23, 1977 is hereby expressly repealed.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-681

H. 1005—Kelley, Harvey, Rains

AN ACT

Relating to Marshall County; fixing the fee for the issuance of a pistol permit by the sheriff and providing for the deposit of such fees in a sheriff's fund.

Be It Enacted by the Legislature of Alabama:

Section 1. In Marshall County the fee for issuance of a permit to carry a pistol concealed on or about the person or in a vehicle as provided by the Code of Alabama 1975, Title 13, Chapter 6, Section 155, shall be ten dollars (\$10.00) which shall be collected by the sheriff of said county.

Section 2. Any and all monies collected as provided above shall be deposited in any bank within the county into a fund known as the sheriff's fund. Said fund shall be drawn upon by the sheriff of the county or his duly appointed agent and shall be used exclusively for law enforcement purposes and in the discharge of the duties of the sheriff's office as he sees fit. The establishment of the sheriff's fund as provided in this act, and the use of such funds shall in no way diminish or take the place of any other imbursement or other source of income established for the sheriff or for the operation of his office. All funds heretofore obtained from pistol permit fees and credited to any special fund or account in the county treasury under authority of any local or general law shall be returned to the sheriff of such county to be deposited and disbursed as provided above.

Section 3. All laws or parts of laws which conflict with this act are repealed, specifically Act 987, Regular Session 1975.

Section 4. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. This act shall become effective on October 1, 1979.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-682

H. 1007—Starkey, Greer

AN ACT

Relating to Lauderdale County; to amend Act No. 285, H. 1050, Regular Session 1975 (Acts 1975, p. 820), relating to the expense allowance for the county coroner, so as to further provide for such allowance.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 285, H. 1050, Regular Session 1975 (Acts 1975, p. 820), is hereby amended to read as follows:

“Section 1. The county coroner in Lauderdale County shall receive a monthly expense allowance of \$400.00. Such allowance shall be in addition to any and all other compensation and allowances received by said coroner.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-683

H. 1008—Greer, Starkey

AN ACT

Relating to Lauderdale County; to further amend Section 2 of Act No. 791, H. 923, 1969 Regular Session (Acts 1969, p. 1421), which provides for the deputy sheriff's uniform allowance, so as to include other employees within the scope of said section.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 2 of Act No. 791, H. 923, 1969 Regular Session (Acts 1969, p. 1421) is hereby amended to read as follows:

"Section 2. The county commission shall furnish each deputy, the chief deputy, the assistant deputy, the investigator and any other employee designated by the Sheriff, with uniforms or it may in its discretion pay to each deputy and designated employee annually a uniform allowance of \$300."

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-684

H. 1010—Campbell

AN ACT

To amend Act No. 192, H. 526, 1971 Regular Session (Acts 1971, p. 487) entitled "An Act relating to Calhoun County; providing for meetings of and clerical assistance to the board of registrars of Calhoun County," relative to the salary of the executive secretary to the board, to make the provisions of this amendatory act retroactive.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 5 of Act No. 192, H. 526, 1971 Regular Session (Acts 1971, p. 487) is amended to read as follows:

"Section 5. The executive secretary provided for herein shall be paid a salary out of the county treasury of not less than four hundred dollars, the exact amount to be fixed by the county governing body of Calhoun County."

Section 2. This Act shall have retroactive effect to October 1, 1978.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-685

H. 1011—Campbell

AN ACT

To repeal Act No. 225, H. 214, approved September 11, 1975, Regular Session 1975 (Acts 1975, p. 753), entitled "An Act Relating to Calhoun County; providing for meetings of and clerical assistance to the board of registrars of Calhoun County, relative to the salary of the executive secretary to the board, to make the provisions of this amendatory act retroactive."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 225, H. 214, approved September 11, 1975, Regular Session 1975 (Acts 1975, p. 751), entitled "An Act to amend Act No. 192, H. 256, 1971 Regular Session (Acts 1971, p. 487), entitled 'An Act relating to Calhoun County, providing for members of and clerical assistance to the board of registrars of Calhoun County,' relative to the salary of the executive secretary to the board, to make the provisions of this amendatory act retroactive," is hereby expressly repealed.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-686

H. 1019—Kelley, Harvey, Rains

AN ACT

Relating to Marshall County; to provide a salary increase for the tax assessor and tax collector for said county and to provide for the effective date of said increase.

Be It Enacted by the Legislature of Alabama:

Section 1. Effective on January 1, 1981, the following officers in Marshall County shall be entitled to receive compensation as follows:

- | | |
|-------------------|--------------------|
| (a) Tax Assessor | \$350.00 per month |
| (b) Tax Collector | \$275.00 per month |

Such salaries shall be paid monthly out of the general fund of said county and be in addition to all other compensation, fees and allowances heretofore provided by law.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1979

Time: 6:00 P.M.

Act No. 79-687

S. 32—St. John

AN ACT

To amend Act No. 408 of the Regular Session, 1977 to further prescribe, authorize and regulate investments of life, disability and burial insurance companies by authorizing investment in certain type of mortgage loan up to one hundred percent of value under certain conditions.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 29 of Act No. 408 of the Regular Session, 1977 is hereby amended to read as follows:

Section 29. MORTGAGE LOANS. An insurer may invest in: (1) Bonds, notes or other evidences of indebtedness which are secured by a first mortgage lien or deed of trust upon unencumbered improved real property located in the United States or Canada, including leasehold estates in such real estate having an unexpired term (inclusive of the term or terms which may be provided by options of renewal) of not less than ten (10) years beyond the final maturity of the loan. Unless guaranteed or insured by the Administrator of Veteran Affairs, the Secretary of Housing and Urban Development or by a mortgage guaranty insurance policy issued by an insurance company licensed and authorized to do business by and in the State of Alabama, no such mortgage loan or loans when made shall exceed seventy-five percent (75%) of the fair value of the real estate or leasehold, except that loans made on single family dwellings shall not exceed eighty percent (80%) of the fair value of the property. "Fair Value" shall be determined by a competent appraiser or appraisers. For the purposes of this Section and Section 30, real estate shall not be deemed to be encumbered by reason of the existence of taxes or assessments that are not delinquent, instruments creating or reserving mineral, oil or timber rights, rights of way, joint driveways, sewer rights, public utility easements, rights in walls, nor by reason of building restrictions or other restrictive covenants, nor when such real estate is subject to lease in whole or in part whereby rents or profits are reserved to the owner; provided that the security created by the mortgage or trust deed on the real estate is a first lien upon such real estate and that there is no condition or right of re-entry or forfeiture under which such lien can be cut off, subordinated or otherwise disturbed.

(2) Bonds, notes, or other evidences of indebtedness which are secured by mortgage or deed of trust on real estate or an interest in real estate in the United States if payment of such indebtedness or part thereof is guaranteed or insured by the Administrator of Veterans Affairs in accordance with the Servicemen's Readjustment Act of 1944 as amended. Any portion of a mortgage loan referred to in this subsection which is not guaranteed as herein provided must not exceed 75% of the fair value of the property as defined in subsection (1) above.

(3) Bonds, notes or other evidences of indebtedness which are secured by mortgage or deed of trust insured by the Secretary of Housing and Urban Development under the terms of the National Housing Act, as amended.

(4) Purchase money mortgages shall be valued as provided in section 27-37-9 of the Alabama insurance code.

(5) Bonds, notes or other evidences of indebtedness which are secured by a first mortgage lien or deed of trust upon unencumbered improved or income bearing real property located in the United States or Canada, including leasehold estates in such real estate having an unexpired term of not less than ten (10) years beyond the final maturity of the loan where the borrower is a solvent corporation engaged in any lawful business and existing under the laws of the United States or any real state of the United States or Canada or any province thereof if such corporation has not defaulted in the payment of principal and interest on any of its fixed interest obligations during five years preceeding the date of investment and the amount of indebtedness does not exceed one hundred percent of the value of the property.

Section 2. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed.

Section 3. This Act shall take effect immediately upon its passage and approval by the Governor or upon its otherwise becoming law.

Approved July 30, 1979

Time: 6:00 P.M.

AN ACT

Divesting the State Highway Department of certain county functions and duties in relation to roads and bridges in "captive" counties, heretofore transferred to it, and revesting such functions in the county governing bodies of the captive counties; providing for the transfer of certain funds, equipment, property and material from the State Highway Department to the county governing bodies; and to provide for the effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. Unless different meanings are expressly specified in subsequent provisions of this Act the following term has the following meaning:

"Captive County" means a county where the State Highway Department by local law or general law with local application is responsible for the construction, repair and maintenance of the roads and bridges of the respective county.

Section 2. The county commission of each of the captive counties shall be solely responsible for the construction, repair and maintenance of the county roads and bridges in its respective county in accordance with the laws of the State of Alabama. Each county governing body shall have all the powers and jurisdiction with respect to county roads and bridges which are or which hereafter may be vested in or required of county governing bodies by the general laws of this state, or vested in or required of the governing body of each of the captive counties by local law; and except as may be otherwise provided herein members of the county governing bodies of the captive counties shall perform all the duties and services and shall exercise all the powers and authority with respect to construction, repair or maintenance of county roads and bridges which are or hereafter may be provided by law for members of county governing bodies.

Section 3. Any unexpended monies remaining in the fund required by law to be maintained by the State Highway Department for use in the construction, repair and maintenance of county roads and bridges in each of the captive counties shall be paid over to the respective governing body of each of the captive counties except as otherwise provided by this Act. Thereafter, all funds and monies designated by law for use in the construction, repair and maintenance of county roads and bridges in each of the captive counties and to which each of said counties may be entitled, whether from the proceeds of the state gasoline tax, the motor vehicle tax, or other state tax, or federal aid accruals, or from any other source whatsoever, shall be paid to the county governing body of the respective captive county by the appropriate county or state

official.

Section 4. The State Highway Department shall transfer and turn over to the governing body of each of the captive counties adequate facilities and properties to build, maintain and repair roads in said county from equipment presently being used by the State Highway Department in carrying out the functions and duties in relation to roads and bridges in each of said captive counties respective and/or from surplus equipment returned to the state from other counties, also but not limited to road equipment, machinery and supplies of like kind, amount, nature and present value as of 1979 to the respective road equipment, machinery and supplies which each of the captive counties was required to transfer and turn over to the State Highway Department in accordance with the legislation enacted prior to the adoption of this Act, which legislation required the State Highway Department to construct, repair and maintain roads and bridges in each of the captive counties. Any dispute which may arise as a result of this section shall be resolved by the majority of the members of a committee consisting of the Highway Director or his agent, the Chairman of the county governing body of the respective county or his agent, and one member from the legislative delegation of the respective county to be selected by the legislative delegation.

Section 5. The State Highway Department shall furnish a list to each captive county with the name, position, rate of pay, and length of service of all persons who are presently employed by the State Highway Department in the respective captive county. The respective counties may employ personnel not to exceed 75% of the employees on the list furnished by the State Highway Department for the construction, repair and maintenance of county roads and bridges in accordance with personnel policy as adopted by the respective counties, the remaining employees now employed by the State Highway Department in each said county shall remain an employee of the State Highway Department subject to the regular employment practices of said department. All persons employed by each respective county shall be paid at the same rate of pay as was paid by the State Highway Department. All present and accumulated obligations due and payable to the present employees as a result of their employment with the State Highway Department shall be the obligation of the State of Alabama including but not limited to accumulated sick leave, vacation time and retirement and any other accumulated benefits earned by the said employees, payment shall be made to the employees on or before the effective date of the Act.

Section 6. Any contract for the construction, repair and

maintenance of county roads and bridges in each of the captive counties entered into by the State Highway Department prior to the adoption of this Act shall remain in full force and effect until the terms thereof shall have been complied with.

Section 7. All outstanding financial obligations which were incurred prior to the adoption of this Act for the construction, repair, or maintenance of county roads and bridges in each of the captive counties shall, upon adoption of this Act, become outstanding financial obligations of the respective captive county, and shall be retired or paid in accordance with the terms under which such indebtedness was incurred. All funds, including escrow funds, received by the State from the respective captive counties to be used for road and bridge work in the respective counties, after payment of current obligations of said counties respectively shall be returned to each of said counties, respectively.

Section 8. The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 9. All laws or parts of law which conflict with this Act are hereby repealed.

Section 10. This Act after its passage and approval by the Governor, or upon its otherwise becoming State Law shall become effective October 1, 1979 or October 1, 1980, at the discretion of the individual county commissions.

Approved August 1, 1979

Time: 3:00 P.M.

Act No. 79-689

S.J.R. 118—Harrison

SENATE JOINT RESOLUTION

NAMING THE NEW BRIDGE AT KOWALIGA "THE HANK WILLIAMS-KOWALIGA BRIDGE."

WHEREAS, Hank Williams was born near the Mount Olive Community in Butler County, Alabama, and is one of our state's most talented and well known citizens; and

WHEREAS, he is a member of the Country Music Hall of Fame and his gravesite in Montgomery, Alabama, is visited by thousands of persons who come to pay their respects to one of the world's most prolific composers of country music and one whose

genius is acknowledged and acclaimed in all corners of the world; and

WHEREAS, the Memorial and Country Music Celebration, held each year in June near his birthplace, is also attended by thousands of Hank Williams' fans who come to honor his great achievements in country music; and

WHEREAS, at Kowaliga, near Lake Martin, still stands yet another outstanding attraction, that ". . . Poor Old Wooden Indian," which served as the inspiration for one of Hank Williams' most popular compositions and one that is still played and sung by country music "greats" almost as often today as when it was first written; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in honor and in memory of a beloved native son, we hereby name and designate the new bridge at Kowaliga, "THE HANK WILLIAMS-KOWALIGA BRIDGE".

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to Hank Williams, Jr., that he may be aware of this honorary designation in memory of his father who brought much fame and honor to the State of Alabama.

Approved July 30, 1979

Time: 5:30 P.M.

Act No. 79-690

H. 157—Biddle

AN ACT

To amend Sections 34-27-4, 34-27-31 and 34-27-35 of the Code of Alabama 1975, as amended, Regular Session, 1978, Acts No. 654, pertaining to qualifications for real estate broker and real estate salesmen licensees, so as to establish a "Real Estate Recovery Fund"; to provide procedural rights for aggrieved parties in certain real estate transactions and to provide for the termination of the license of any person against whom a judgment creates a claim against such fund; and to further provide for certain fees and the distribution thereof.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 34-27-4, 34-27-31 and 34-27-35 of the Code of Alabama 1975, as amended, Regular Session, 1978, Acts No. 654, are hereby amended to read as follows:

"Section 34-27-4. REAL ESTATE COMMISSION FUND.

All fees, fines and charges except as otherwise provided in Section 34-27-31 of this chapter, collected by the Alabama Real Estate Commission under the provisions of this chapter shall be paid into the state treasury and shall constitute a separate fund to be disbursed by the state comptroller on order of the executive director at the direction of the commission. All expenses incurred by the commission under the provisions of this chapter, including the compensation of members, secretaries, clerks, assistants, attorneys and witnesses, shall be paid out of the separate fund in the state treasury upon warrants of the state comptroller drawn upon the state treasury from time to time when vouchers therefor are exhibited and approved by the executive director. The state treasurer is directed to pay money out of the separate fund hereinabove provided for upon the order of the executive director of the commission; provided, the total expenses for every purpose incurred shall not exceed the total fees and charges collected and paid into the state treasury; provided, the total expense for every purpose incurred in carrying out the provisions of this chapter shall not exceed the amount appropriated therefor by the legislature in the general appropriation bill; and provided further, that no funds shall be withdrawn or expended except as shall be budgeted and allotted in accordance with the provisions of Article IV of Chapter 4 of Title 41 of this Code, and all monies remaining unexpended in the separate fund hereinabove provided at the end of the fiscal year shall be covered into the state treasury to the credit of the general fund of the state of Alabama.

"Section 34-27-7. REAL ESTATE COMMISSION-CREATED; COMPOSITION; QUALIFICATIONS OF MEMBERS; APPOINTMENT; TERMS; COMPENSATION; ORGANIZATION; EXECUTIVE DIRECTOR AND ASSISTANT EXECUTIVE DIRECTOR GENERALLY; SEAL; RECORDS.

"(a) There is hereby created the Alabama real estate commission. The commission shall consist of five members appointed by the governor with the advice and consent of the senate. Appointments made at times when the senate is not in session shall be effective ad interim. Any appointment made by the governor while the senate is in session must be submitted to the senate not later than the third legislative day following the date of appointment; any appointment made while the senate is not in session shall be submitted not later than the third legislative day following the reconvening of the legislature. Each appointee shall have been a resident and citizen of this state for at least 10 years prior to this appointment and whose vocation for at least 10 years

shall have been that of a real estate broker or real estate salesman. No person convicted of a violation of former Title 46, sections 298 through 311, Code of Alabama, 1940, or of this chapter shall be eligible to serve. Not more than one member from any congressional district shall be appointed to serve at the same time. The members of the commission whose terms do not expire prior to October 1, 1951, shall serve until their respective terms expire, and at the expiration of each term, the governor shall appoint, subject to confirmation by the senate as provided above, a member to fill the vacancy, and such appointment shall be for a term of five years, or until his successor is appointed and qualifies. On October 1, 1951, the governor shall appoint or reappoint one commissioner for a period of three years, one commissioner for a period of five years, all appointments expiring on September thirtieth of the respective years or until their successors are appointed and qualify. Thereafter, any appointment shall be for a period of five years, or until such commissioner's successor is appointed and qualified.

“(b) Immediately upon the appointment of any new commissioner, the commission shall organize by selecting from its members a chairman and may do all things necessary and convenient for carrying into effect the provisions of this chapter and may from time to time promulgate rules and regulations that are necessary to properly administer this chapter. Each member of the commission shall receive as full compensation for his services the sum of \$300.00 per month and his actual and necessary expenses incurred in the performance of duties pertaining to his office. The members of the real estate commission, the executive director, and/or the assistant executive director, the attorney and the investigators shall be reimbursed for their actual expenses for official travel on official business of the real estate commission within or without the state of Alabama.

“(c) The commission may employ an executive director and an assistant executive director, both of whom shall be exempted from the classified service under the general laws of the state, and such clerks, investigators and assistants as it shall deem necessary to discharge the duties imposed by the provisions of this chapter and to effect its purposes, and the commission shall determine the duties and fix the compensation of such executive director, assistant executive director, clerks, investigators and assistants, subject to the general laws of the state.

“(d) The commission shall adopt a seal by which it shall authenticate its proceedings. Copies of all records and papers in the office of the commission duly certified and authenticated by the seal of said commission shall be received in evidence in all courts

equally and with like effect as the original. All records kept in the office of the commission under authority of this chapter shall be open to public inspection under reasonable rules and regulations as shall be prescribed by the commission."

"Section 34-27-31. QUALIFICATIONS OF LICENSEES; RECOVERY FUND; FINAL JUDGMENT AGAINST LICENSEE AUTOMATICALLY SUSPENDS LICENSE; LICENSEE TO REPORT ANY LEGAL ACTION TAKEN AGAINST HIM.

"(a) Licenses shall be granted only to persons who are trustworthy and competent to transact the business of a real estate broker or real estate salesman in such manner as to safeguard the interest of the public. Every applicant for a license as real estate broker or real estate salesman shall be a person who has not been convicted of a criminal offense involving moral turpitude in this or any other state and shall so state on his application. The applicant must be a person whose application or license has not been rejected or revoked in this state or any other state within two years prior to date of application on any grounds other than failure to pass the written examination. Each applicant for a license shall be a citizen of the United States and of at least 19 years of age.

"(b) Each real estate broker must sign a statement to the effect that he accepts the responsibility for the actions covered by this chapter of any and all salesmen licensed under him or any corporation or partnership for whom he is the qualifying broker, and it shall be the duty and responsibility of every broker to see that all transactions of every salesman licensed under him or any corporation or partnership for which he is qualifying broker comply with the provisions of this chapter and the broker shall be responsible to any injured party for the damage caused to such party by any violation of this chapter by any corporation or partnership for which he is qualifying broker or by any salesman while such salesman is licensed under such broker. This subsection in no wise relieves any salesman or any corporation or partnership from any liability that he would have but for this chapter.

"(c) The commission is authorized and directed to establish and maintain a real estate recovery fund from which any person, except bonding companies when they are not principals in a real estate transaction, aggrieved by an act, representation, transaction or conduct of a duly licensed broker, salesman, corporation, partnership or branch office, which is in violation of the provisions of this act or the regulations promulgated pursuant thereto, may recover by order of the circuit court or other court having competent jurisdiction where the violation occurred for only actual

or compensatory damages, and not including interest and costs sustained by the act, representation, transaction or conduct; provided, that nothing shall be construed to obligate the fund for more than \$25,000 per transaction regardless of number of persons aggrieved or parcels of real estate involved in such transaction; nor shall any provision hereof be construed to prohibit any person from exercising the option of purchasing a bond in the open market payable to the State of Alabama in the amount of \$25,000. Said bond shall provide coverage equivalent to the coverage provided by the real estate recovery fund. In addition:

“(1) This section shall be construed to obligate the fund for the acts of a licensed broker, salesman, corporation, partnership or branch office while acting on his own behalf in property owned or in which he has an interest.

“(2) The liability of the fund for the acts of a duly licensed broker, salesman, corporation, partnership or branch office, when acting as such, is terminated upon the issuance of court orders authorizing payments from the fund for judgments, or any unsatisfied portion of judgments, in an aggregate amount of \$50,000 on behalf of such licensee.

“Any broker, salesman, corporation, partnership or branch office holding a license on the effective date of this act shall file the fee required of the original applicant. When any person makes application for an original license to practice as a broker, corporation, partnership or branch office, he shall pay, in addition to his original license fee, a fee of \$30 for deposit in the real estate recovery fund. When any person makes application for an original license to practice as a salesman, he shall pay, in addition to his original license fee, a fee of \$20 for deposit in the real estate recovery fund. In the event that the commission does not issue the license, this fee shall be returned to the applicant.

“(d) If, on the date the renewal application is mailed in any year, the balance remaining in the real estate recovery fund is less than \$500,000, every broker, corporation, partnership and branch office, when renewing their license for the following license year, shall pay, in addition to his license renewal fee, a fee of \$15 for deposit in the real estate recovery fund, and every salesman, when renewing his license for such year, shall pay, in addition to his license renewal fee, a fee of \$10 for deposit in the real estate recovery fund.

“(e) (1) No action for a judgment which subsequently results in an order for collection from the real estate recovery fund shall be started later than as provided by appropriate Alabama statute on

limitation of action thereon. When any aggrieved person commences action for a judgment which may result in collection from the real estate recovery fund, the aggrieved person shall notify the commission in writing, by certified mail, returned receipt requested, to this effect at the time of the commencement of such action. The commission is hereby authorized to employ legal counsel and shall have the right to intervene in and defend any such action. Any expenses incurred will be paid from the recovery fund. The commission is further authorized to settle or compromise said claim, and in that event, the claim may be paid directly from the fund.

“(2) When any aggrieved person recovers a valid judgment in any court of competent jurisdiction against any broker, salesman, corporation, partnership or branch office, for any act, representation, transaction or conduct which is in violation of the provisions of this act or the regulations promulgated pursuant thereto, which occurred on or after October 1, 1979, the aggrieved person may, upon the termination of all proceedings, including reviews and appeals in connection with the judgment, file a verified claim in the court in which the judgment was entered and, upon 10 days written notice to the commission, may apply to the court for an order directing payment out of the real estate recovery fund of the amount unpaid upon the judgment, subject to the limitations stated in this section.

“(3) The court shall proceed upon such application in a summary manner, and, upon the hearing thereof, the aggrieved person shall be required to show:

“(i) he is not a spouse of debtor, or the personal representative of such spouse;

“(ii) he has obtained a judgment, as set out in subsection (e) (2) of this section, stating the amount thereof and the amount owing thereon at the date of the application, and, that in such action, he had joined any and all bonding companies which issued corporate surety bonds to the judgment debtors as principals and all other necessary parties;

“(iii) that the following items, if any, as recovered by him, have been applied to the actual or compensatory damages awarded by the court;

“(A) any amount recovered from the judgment debtor or debtors;

“(B) any amount recovered from the bonding company or companies;

“(C) any amount recovered in out of court settlements as to particular defendants.

“(4) The court shall make an order directed to the commission requiring payment from the real estate recovery fund of whatever sum it shall find to be payable upon the claim, pursuant to the provisions of and in accordance with the limitations contained in this section, if the court is satisfied, upon the hearing, of the truth of all matters required to be shown by the aggrieved person.

“(5) Should the commission pay from the real estate recovery fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensed broker, salesman, corporation, partnership or branch office, the license of such licensee may be terminated by the commission, upon the issuance of a court order authorizing payment from the real estate recovery fund, and no such licensee shall be eligible to receive a new license, at the discretion of the commission, until he has repaid in full, plus interest at the rate of six percent a year, the amount paid from the real estate recovery fund on his account. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided, in this subsection.

“(6) If, at any time, the money deposited in the real estate recovery fund is insufficient to satisfy any duly authorized claim or portion thereof, the commission shall, when sufficient money has been deposited in the real estate recovery fund, satisfy such unpaid claims or portions thereof in the order that such claims or portions thereof were originally filed, plus accumulated interest at the rate of six percent a year.

“(f) The sums received by the commission pursuant to any provisions of this section shall be deposited into the state treasury and held in a special fund to be known as the real estate recovery fund, and shall be held by the commission in trust for carrying out the purposes of this section. These funds may be invested by the state treasurer in any investment which are legal for domestic life insurance companies under the laws of this state. Any interest or other income from investments of this fund shall be deposited in the state treasury.

“(g) It shall be unlawful for any person or his agent to file with the commission any notice, statement or other document required under the provisions of this section which is false, untrue or contains any material misstatement of facts and shall constitute a misdemeanor.

“(h) When the commission receives notice, as provided in

subsection (e), the commission may enter an appearance, file an answer, appear at the court hearing, defend the action or take whatever other action it may deem appropriate on the behalf and in the name of the defendant, and take recourse through any appropriate method of review on behalf and in the name of the defendant.

“(i) When, upon the order of the court, the commission has paid from the real estate recovery fund any sum to the judgment creditor, the commission shall be subrogated to all of the rights of the judgment creditor, and the judgment creditor shall assign all his right, title and interest in the judgment to the commission, and any amount and interest so recovered by the commission on the judgment shall be deposited to the fund.

“(j) The failure of an aggrieved person to comply with all of the provisions of this section shall constitute a waiver of any rights hereunder.

“(k) If at any time there is rendered a final judgment against a licensee under this act, the license of the principal may be suspended. A judgment shall be considered final when no further relief is available from said judgment in the appeal courts of Alabama. In case of such suspension of license, the commission shall give notice to the licensee that his license is suspended, and said licensee shall deliver his license to the commission for disposition. Upon request by the suspended licensee, the commission will set a date designating the date, time and place thereon for a hearing on the question of whether the license under suspension should be revoked, whether the suspension should be continued or whether the suspension should be terminated upon the fulfillment of reasonable conditions imposed by the commission. The hearing shall be conducted as hereinafter provided. No salesman or broker whose license has been revoked may apply for a license hereunder until at least two years after the date of such revocation and, in the event of such application for reinstatement, he shall meet all the requirements imposed upon an original applicant for a license under this act and shall not be relicensed unless a majority of the commission votes in favor of such relicensing.

“(1) It shall be the duty of every licensee, within ten days after receipt by him of a citation issued to him from any court of competent jurisdiction or within ten days from the institution of any prosecution against him, the subject matter of which involved a transaction, to which he was a party, of any real estate or real estate business, or the good will of an existing real estate business to notify

the commission in writing within ten days. Such notification shall be addressed to the commission by United States registered mail or certified mail. For failure to give such notification the commission may suspend the license of such licensee from the date on which he receives written notice of the suspension from the licensing authority until he is reinstated by the commission. Similarly, the licensee shall notify the commission within ten (10) days from the date on which he enters into a compromise of any suit or a judgment by the court of dismissal of the action, civil or criminal, is rendered.

"Section 34-27-35. FORM AND CONTENTS; CUSTODY; FEES; CERTIFICATE OF CONTINUATION IN BUSINESS.

"(a) The commission shall issue to each licensee a license in such form and of such size as shall be prescribed by the commission. A broker's license shall show the name and business address of the licensee. A salesman's license shall show his name and the name of the broker under whom he is licensed. Each license shall have imprinted thereon the seal of the commission and, in addition to the foregoing, shall contain such matter as shall be prescribed by the commission. The license of each real estate salesman shall be delivered or mailed to the real estate broker by whom such real estate salesman is employed and shall be kept in the custody and control of such broker.

"(b) The following fees or licenses shall be paid by all licensees in the state of Alabama. The original fee for each real estate broker's license issued to an individual shall be \$25.00, and the annual renewal fee for each such real estate broker's license shall be \$25.00. The original fee for each real estate salesman's license shall be \$15.00 and the annual renewal fee for each real estate salesman's license shall be \$15.00. The original fee for each license issued to a corporation or to a partnership shall be \$15.00, and the annual renewal fee shall be \$15.00. The original fee for each branch office shall be \$15.00, and the annual renewal fee shall be \$15.00.

"Effective October 1, 1979, any broker, salesman, corporation, partnership or branch office holding a license shall file the fee for the real estate recovery fund as if an original applicant. When any person makes application for an original license to practice as a broker, corporation, partnership or branch office, he shall pay, in addition to his original license fee, a fee of \$30 for deposit in the real estate recovery fund. When any person makes application for an original license to practice as a salesman, he shall pay, in addition to his original license fee, a fee of \$20 for deposit in the real estate recovery fund. If, on the date of application of any year, the balance remaining in the real estate recovery fund is less than \$500,000,

every broker, corporation, partnership and branch office, when renewing their license during the following license year, shall pay, in addition to his license renewal fee, a fee of \$15 for deposit in the real estate recovery fund, and every salesman, when renewing his license during such year, shall pay, in addition to his license renewal fee, a fee of \$10 for deposit in the real estate recovery fund. The provisions of this subsection notwithstanding, no person who has purchased a bond in the open market, payable to the State of Alabama, shall be required to pay into the real estate recovery fund. Upon proof such bond provides coverage equivalent to the coverage provided by the real estate recovery fund, and in an amount not less than \$25,000, the commission shall waive any fee for deposit in the real estate recovery fund.

“Annual renewal fees must accompany the certificate of continuation in business, which must be filed on or before August 31st of each ensuing year; but, in the event said certificate of continuation in business is filed after August 31st of each ensuing year, there shall be added to the above fees a penalty in the amount of 50 percent, which shall be paid before a license can be issued.

“(c) Every applicant for a license as broker or salesman, other than an applicant for renewal of an existing license, shall pay, in addition to the fees provided for in subsection (b) of this section, the examination fee of \$50.00, which payment must be made by separate certified check, cashier’s check, post office money order or money order issued by any person duly licensed to do business in Alabama under the Sale of Checks Act and, further provided, than an additional fee of \$50.00 is paid each time the examination is taken.

“(d) Each license issued by this commission under this section shall be valid without further recommendation or examination until revoked or suspended or until such license shall lapse for failure to file a certificate of continuation as provided for in this section.

“(e) Licensees under this chapter shall be exempt from the provisions of sections 5-19-22 and 5-19-27 of the Code of Alabama.

“(f) Each licensee shall file, on or before August 31st of each ensuing year, a certificate of continuation in business on a form prescribed by the Alabama Real Estate Commission listing all salesmen and other information as required by the commission. The certificate of continuation in business shall be mailed by the commission to the licensee’s place of business prior to August 1st each year.

"Every certificate of continuation in business shall expire at midnight on the thirtieth day of September of each year. The license of any licensee who fails to file a certificate of continuation prior to the thirtieth day of September of each ensuing year shall lapse, and such broker or salesman shall be subject to all the requirements of such sections applicable to persons who have never been licensed unless the commission for good cause shown, determines that the certificate of continuation could not have been filed by the thirtieth day of September, but is filed within 15 days from said date. No license shall be transferred during the month of September except in case of undue hardship.

"(g) The commission shall have the authority, at its discretion, to issue licenses, which shall be prepaid for a period of one or more years at the prevailing fees.

"Section 2. This act shall become effective October 1, 1979."

Approved July 31, 1979

Time: 4:30 P.M.

Act No. 79-691

S. 582—Little

AN ACT

To establish a program authorizing subsidies to make it possible for children in special circumstances such as with medical needs, disabilities or in long term foster care to be adopted.

Be It Enacted by the Legislature of Alabama:

SECTION 1. The purpose of this Act is to supplement the Alabama adoption statutes by making possible through public financial subsidy the most appropriate adoption of each child certified by the State Department of Pensions and Security as requiring a subsidy to assure adoption.

SECTION 2. As used in this Act, except as otherwise required by the context, "child" means a child or a minor as defined by Alabama statute, who is (a) in the permanent custody of a public or voluntary licensed child-placing agency, (b) legally free for adoption, and (c) in special circumstances because he is not likely to be adopted by reason of one or more conditions, such as:

1. Physical or mental disability,
2. Emotional disturbance,
3. Recognized high risk of physical or mental disease,

4. Age,
5. Sibling relationship,
6. Racial or ethnic factors, or
7. Potential danger to the child in severance of his emotional ties with the prospective adoptive parents, or
8. Any combination of these conditions.

SECTION 3. The State Department of Pensions and Security shall establish and administer an ongoing program of subsidized adoption. Subsidies and services for children under this program shall be provided out of funds appropriated to the State Department of Pensions and Security for the maintenance of children in foster care or made available to it from other sources.

SECTION 4. When foster parents are the prospective adoptive parents, certification of the child's eligibility for a subsidy shall be conditioned upon his adoption by the said prospective adoptive parents under applicable Alabama adoption policies, procedures, and statutes.

In all other cases, after reasonable efforts have been made and no appropriate adoptive family without the use of subsidy has been found for a child, the State Department of Pensions and Security shall certify the child as eligible for a subsidy in the event of adoption.

If the child is in the permanent custody of a voluntary licensed child-placing agency, that agency shall present to the State Department of Pensions and Security (1) evidence to support the existence of potential danger to the child in severing his emotional ties with his foster parents who are the prospective adoptive parents, or (2) evidence of inability to place the child for adoption due to any of the other conditions specified in Section 2 of this Act. In the latter case, the agency shall present evidence that reasonable efforts have been made to place the child without subsidy, such as recruitment of potential parents, use of adoption resource exchanges, and referral to appropriate specialized adoption agencies.

The decision concerning certification of the child for subsidy shall be made by the State Department of Pensions and Security. Evidence submitted by the voluntary licensed child-placing agency shall serve as a basis for the decision and the State Department of Pensions and Security may request and receive from the voluntary licensed child-placing agency additional information which the State Department of Pensions and Security considers necessary to

the decision.

If the State Department of Pensions and Security approves the subsidy plan, it will draft and sign jointly with the adoptive parents the subsidy agreement. The State Department of Pensions and Security will be the administrator of the subsidy agreement according to its regulations and the terms of this Act.

The voluntary licensed child-placing agency shall continue supervisory responsibility for the child and the family until after the final adoption decree has been issued.

SECTION 5. When parents are found and approved for adoption of a child certified as eligible for subsidy, and before the final decree of adoption is issued, there must be a written agreement between the State Department of Pensions and Security and the adopting family as to the terms and conditions of the subsidy. Adoption subsidies in individual cases may commence at any time after the adoption placement or at the appropriate time after the adoption decree, and will vary with the needs of the child as well as the availability of other resources to meet the child's needs. The subsidy may be for special services only, or for money payments, and either for a limited period, or for a long term, or for any combination of the foregoing. The amount of the time-limited or long-term subsidy may in no case exceed that which would be allowable from time to time for such child in foster care, or, in the case of special service, the reasonable fee for the service rendered.

When subsidies are for more than one year, the adoptive parents shall present an annual sworn certification that the adopted child remains under their care and that the condition(s) that caused the child to be certified continue(s) to exist. The subsidy agreement shall be continued in accordance with its terms but only as long as the adopted child is the legal dependent of the adoptive parents and the child's condition continues, except that, in the absence of other appropriate resources provided by law and in accordance with Alabama regulations, it may be continued after the adopted child reaches majority, provided he is in school or in training in a program, the purpose of which is to aid him toward self-supporting. If the child certified for subsidy was in permanent custody of a voluntary licensed child-placing agency, that agency shall, upon request, furnish the State Department of Pensions and Security additional information which may be needed to assure that conditions that caused the child to be certified continue(s) to exist. The subsidy agreement may be modified only with approval of the State Department of Pensions and Security. The adoptive parents may request termination of the subsidy agreement at any

time.

A child who is a resident of Alabama when eligibility for subsidy is certified shall remain eligible and receive subsidy, if necessary for adoption, regardless of the domicile or residence of the adopting parents at the time of application for adoption, placement, legal decree of adoption or thereafter.

All records regarding subsidized adoption shall be confidential and may be disclosed only in accordance with Code of Alabama 1975, Sections 26-10-4, 26-10-5, 38-2-6(8) and 38-7-13.

SECTION 6. Any subsidy decision by the State Department of Pensions and Security which the placement agency or the adoptive parents deem adverse to the child is reviewable by the State Department of Pensions and Security.

SECTION 7. The State Department of Pensions and Security shall promulgate Regulations consistent with this Act within 120 days of its enactment.

SECTION 8. This Act should be known and may be cited as the Alabama Subsidized Adoption Act.

SECTION 9. This Act shall take effect 120 days following its passage and approval by the Governor or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 11:00 A.M.

Act No. 79-692

H. 151—Waggoner

AN ACT

To create an additional judgeship for the Tenth Judicial Circuit of Alabama; to provide for the election of such judge; to prescribe the jurisdiction, powers, authority, qualifications, duties, and compensation of such judge, and to render such judge liable to all the pains and penalties of other Circuit Judges in the State; to further provide for a division of authority and duties between judgeships in said Circuit; to increase the number of Circuit Judges in the Tenth Judicial Circuit of Alabama to 20; to repeal all laws or parts of laws in conflict herewith; to amend Section 12-17-20 of the 1975 Code of Alabama; to eliminate one district judgeship in the Birmingham District of Jefferson County; and to provide the effective date of this Act.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby created the office of Circuit Judgeship No. 20 of the Tenth Judicial Circuit of Alabama, which

shall be in addition to the judgeships of said Circuit now existing. The first judge of said additional Circuit Judgeship No. 20 shall be appointed in the manner provided by Amendment 83 and 110 to the Constitution of Alabama and shall hold office until his successor has been elected and qualified as provided by law. The judge of said Circuit Judgeship No. 20 shall be elected for the same term of office as other circuit judges are elected in the State as provided by Section 6.14 and Amendment 328.

Section 2. The Judge of said Circuit Judgeship No. 20 shall have and exercise all of the jurisdiction, powers, rights, and authority and possess all the qualifications, perform all the duties, and be subject to the pains, obligations, and penalties that other circuit judges may exercise, perform, or be subject to, and shall sit in that Division of said circuit in which the circuit judges number 1 through 4, 6 through 11, and 13 through 18, sit and perform the same duties in said Division as performed by said circuit judges numbered 1 through 4, 6 through 11, and 13 through 18.

Section 3. The additional circuit judge provided for in this Act shall receive the same salary, and supplements payable in the same manner, as other Circuit Court Judges in the Tenth Judicial Circuit.

Section 4. Section 12-17-20 of the 1975 Code of Alabama is amended to read as follows:

“§ 12-17-20. (a) Except as otherwise provided in this section, each judicial circuit of the state shall have one resident circuit judge.

“(b) In the following judicial circuits, there shall be the number of resident circuit judges listed below:

“(1) There shall be two circuit judges in the first judicial circuit. The judge occupying judgeship No. 1 shall be the presiding judge.

“(2) There shall be two circuit judges in the fourth judicial circuit. One of said judges shall be known as the presiding judge and the other as the associate judge.

“(3) There shall be four circuit judges in the fifth judicial circuit. No two judges shall reside in the same county in said circuit.

“(4) There shall be five circuit judges in the sixth judicial circuit.

“(5) There shall be four circuit judges in the seventh judicial

circuit.

“(6) There shall be three circuit judges in the eighth judicial circuit.

“(7) There shall be two circuit judges in the ninth judicial circuit.

“(8) There shall be 20 circuit judges in the tenth judicial circuit. The judges numbered 5, 12, and 19 shall sit in the Bessemer division of said circuit. The other judges shall sit in the Birmingham division of said circuit.

“(9) There shall be two circuit judges in the eleventh judicial circuit.

“(10) There shall be two circuit judges in the twelfth judicial circuit.

“(11) There shall be nine circuit judges in the thirteenth judicial circuit.

“(12) There shall be three circuit judges in the fourteenth judicial circuit.

“(13) There shall be six circuit judges in the fifteenth judicial circuit. At least two judges shall be assigned to the criminal division of said circuit, and one or more judges shall be assigned to the civil division, in the discretion of the presiding judge.

“(14) There shall be four circuit judges in the sixteenth judicial circuit.

“(15) There shall be three circuit judges in the eighteenth judicial circuit.

“(16) There shall be two circuit judges in the nineteenth judicial circuit.

“(17) There shall be three circuit judges in the twentieth judicial circuit.

“(18) There shall be two circuit judges in the twenty-second judicial circuit.

“(19) There shall be six circuit judges in the twenty-third judicial circuit.

“(20) There shall be two circuit judges in the twenty-fifth judicial circuit.

“(21) There shall be two circuit judges in the twenty-sixth judicial circuit.

"(22) There shall be two circuit judges in the twenty-seventh judicial circuit.

"(23) There shall be two circuit judges in the twenty-eighth judicial circuit.

"(24) There shall be two circuit judges in the twenty-ninth judicial circuit.

"(25) There shall be two circuit judges in the thirtieth judicial circuit.

"(26) There shall be two circuit judges in the thirty-first judicial circuit.

"(27) There shall be two circuit judges in the thirty-second judicial circuit.

"(28) There shall be two circuit judges in the thirty-seventh judicial circuit.

"(29) There shall be two circuit judges in the thirty-eighth judicial circuit.

Section 5. There is hereby appropriated to the Unified Judicial System for the General Fund, the sum of \$29,000 for the fiscal year 1978-79 and the sum of \$64,500 for the fiscal year beginning October 1, 1979.

Section 6. Upon the appointment of the judge to fill Circuit Judgeship No. 20 as provided in Section 1 of this Act, the number of district judges in the Birmingham division of Jefferson County shall be reduced from nine (9) to eight (8). The elimination of one district judgeship from the Birmingham division of Jefferson County shall become effective only upon the death or resignation of a district judge in the Birmingham division of Jefferson County. The elimination provided above shall not become effective due to the end of the term of any District Judge in the Birmingham Division, but only will occur on the death or resignation of a District Judge in the Birmingham division of Jefferson County.

Section 7. All laws, and parts of laws, whether general, special or local, in conflict with the provisions of this Act, are hereby repealed.

Section 8. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 9. This Act shall become effective immediately upon its passage and approval by the Governor or its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-693

H. 674—Waggoner

AN ACT

To make an appropriation to the University of Alabama in Birmingham, School of Optometry, from funds which are on deposit in the State Treasury.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to any and all other appropriations for the fiscal year ending September 30, 1979, there is hereby appropriated to the University of Alabama in Birmingham, School of Optometry, the sum of \$24,000 from the Optometry Trust Fund, funds of which are on deposit in the State Treasury.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-694

S.J.R. 153—Miller

SENATE JOINT RESOLUTION

EXPRESSING APPRECIATION TO THE MOBILE HOUSE AND SENATE DELEGATION AND TO THE ALABAMA SHERIFFS ASSOCIATION.

WHEREAS, "seafood" is now pronounced "Bayley's" by the Alabama Legislature and staff, following a sumptuous seafood cookout, catered by the incomparable Bayley's of Mobile, Alabama, on July 18, 1979; and

WHEREAS, grateful guests enjoyed a bountiful feast, varied as to selection but consistently delicious and totally in keeping with Bayley's reputation throughout the entire State of Alabama and the Southeast as well; and

WHEREAS, the delicious meal was surpassed only by the generosity of those who so thoughtfully hosted an occasion which will be long remembered by all those in attendance; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most gratefully express our deep appreciation both for the seafood dinner and for the thoughtfulness of the Mobile House and Senate Delegation and all members of the Alabama Sheriffs Association.

BE IT FURTHER RESOLVED, That copies of this resolution be presented to the Mobile Delegation, to Sheriff Tom Purvis as president of the Alabama Sheriffs Association, with a copy also provided for Bayley's of Mobile in token of appreciation and praise for their part in the inimitable success of the Seafood Capitol Cookout.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-695 S.J.R. 151—Smith, McDonald and Lemaster

SENATE JOINT RESOLUTION

COMMENDING THE STUDENTS OF GRISSOM HIGH SCHOOL, HUNTSVILLE, ALABAMA, ON THE ESTABLISHMENT OF AN ANNUAL "HONOR AMERICA DAY."

WHEREAS, during our Bicentennial Year, 1976, a group of Grissom High School students conceived a most signal celebration of this momentous anniversary of our nation's birth; and

WHEREAS, that year Mr. George Newby's history students combined a birthday party for America with a Thanksgiving feast; the celebration, held in their classroom, had for its theme "Our Town," with local public officials invited for this special occasion; and

WHEREAS, as a result of this special program honoring America, both parents and city officials alike were charged with the enthusiasm and love-of-country expressed by these young Huntsville, Alabama, students; and

WHEREAS, the event grew bigger and more elaborate each year until, in 1978, "Think America In November" was endorsed by the Instructional Department of the Huntsville City Schools and special programs were developed throughout the entire system; and

WHEREAS, to further share and spread "Caring About America" throughout all states in the Union, the Huntsville City

Board of Education, by resolution, established a program for the nation with the first of annual celebrations to be held November 21, 1979; and

WHEREAS, a student and teacher, from each of our 50 states, who exemplify the teaching/learning process in Americanism, will be invited to attend, as well as the chief state school officer and a high public official of each state; and

WHEREAS, members of the Alabama Legislature are in total and complete accord that “. . . the fate of the nation is tomorrow, and the student of today will choose what tomorrow will be”; we further stand in tribute to the outstanding patriotism and love as evidenced by the young Grissom High School students in whose hearts “Caring About America” first began; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we wholeheartedly applaud and endorse both the concept and reality of “Honor America Day”, and most highly commend all those responsible for its being.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to the Huntsville City Board of Education with a copy also provided for appropriate display at Grissom High School in Huntsville, Alabama.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-696

S. 88—Little

AN ACT

To amend Section 5-1-17 of the Code of Alabama 1975 relating to special certificates of deposit so as to prescribe certain procedures relating to the maturity of such certificates.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 5-1-17 of the Code of Alabama 1975 is hereby amended to read as follows:

“Section 5-1-17. No certificate of deposit issued by a banking corporation or trust company for any special deposit for which interest is to be paid must be reissued, but, on return thereof, must be cancelled. Provided, however, that in case of certificates of deposit issued for more than ninety (90) days which are

automatically renewable, such corporation or company shall send within a reasonable period, but in no event less than five (5) days before the next maturity, a written notice of maturity to the last known address of record.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-697

S. 120—Kirkland and Martin

AN ACT

To further regulate night hunting and taking of raccons or opossums so as to permit the use of dogs, a light and a 22-caliber rimfire rifle using short rifle ammunition or a shotgun using No. 6 shot or greater.

Be It Enacted by the Legislature of Alabama:

Section 1. Raccons or opossums may be legally hunted and taken at night by catching or killing with the use of dogs, a light and a 22-caliber rimfire rifle using short rifle ammunition or a shotgun using No. 6 shot or greater.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-698

S. 123—Kirkland and Mitchem

AN ACT

To amend Section 36-25-1 of the Code of Alabama 1975, so as to exclude state soil and water conservation district supervisors from the provisions of the State Ethics Law.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 36-25-1 of the Code of Alabama 1975, is

hereby amended to read as follows:

“§ 36-25-1. Whenever used in this chapter, the following words and terms shall have the following respective meanings unless the context clearly indicates otherwise:

(1) **BUSINESS.** Any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual and any other legal entity.

“(2) **BUSINESS WITH WHICH HE IS ASSOCIATED.** Any business of which the person or a member of his family is an officer, owner, partner, employee or holder of more than 10 percent of the fair market value of such business.

“(3) **CANDIDATE FOR PUBLIC OFFICE.** Any person who has filed a declaration of candidacy or a petition to appear on the ballot for election as a public official, and any person who has been nominated for appointment to serve as a public official.

“(4) **COMMISSION.** The state ethics commission.

“(5) **LEGISLATIVE EMPLOYEE.** Any person employed by the legislature or by any of its committees and any person employed by a legislator from funds provided by the state, who receives compensation of \$12,000.00 or more per year.

“(6) **LOBBYING.** The practice of promoting or opposing the introduction or enactment of legislation before the legislature or the legislative committees or the members thereof, and shall also include the practice of promoting or opposing executive approval of legislation.

“(7) **LOBBYIST.** All persons who seek to encourage the passage, defeat or modification of any legislation, except members of the Alabama legislature or any person who, on an isolated basis and without the intent to continue beyond a single day during a session of the Alabama legislature, merely appears before a committee or committees of the legislature in his individual capacity, or on behalf of a corporation, partnership, association or other business entity, with which such person is regularly associated as an employee, officer, member or partner without receiving additional salary or compensation other than reasonable and ordinary travel expenses, to express support of or opposition to any legislation, and who shall so declare to a member, members or committee of the legislature with whom he discusses any proposed legislation.

“(8) **REPORTING YEAR.** The reporting official's or

employee's fiscal tax year as it applies to his United States income tax return(s).

"(9) PUBLIC EMPLOYEE. Any employee of state, county or municipal governments who has administrative and discretionary authority for the receipt or expenditures of public funds or who earns in excess of \$15,000.00 annually, but shall not include those persons who are primarily engaged in teaching duties in all schools, colleges, and universities in the state.

"(10) PUBLIC EMPLOYEE'S FAMILY. The employee's spouse and dependents.

"(11) PUBLIC OFFICIAL. Any elected official at the state, county or municipal level of government and any person appointed under state, county or municipal law to an office where in the conduct of such office such person has administrative and discretionary authority for the receipt or expenditure of public funds. This term shall also include members of state boards, commissions, committees, councils and authorities, however selected, presidents, vice-presidents, chief purchasing officials and chief financial officials of all schools, colleges and universities of the state; members of city and county industrial boards, planning and zoning boards, school boards, boards of adjustment, utility boards, housing boards, public hospital boards and any boards, commissions, committees, authorities or councils having jurisdiction with respect thereto, in all cities whose population is more than 15,000 according to the last decennial census. This term excludes state soil and water conservation district supervisors and members of all other boards not named including but not limited to those commissions, committees, councils, boards or authorities, functioning solely for cultural or historical purposes and advisory board members and members of boards of trustees of institutions of higher learning of the state of Alabama.

"(12) PUBLIC OFFICIAL'S FAMILY. The official's spouse and dependents."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

To create a fund known as the "Cost of Evidence Fund" in the amount of fifty thousand dollars to be used by the Alabama Alcoholic Beverage Control Board for the procurement of evidence to aid in the criminal enforcement of the drug and narcotic laws of this State. Monies to be expended for this fund shall be paid from the funds appropriated to the Law Enforcement Division of the Alabama Alcoholic Beverage Control Board for "other expenses."

Be It Enacted by the Legislature of Alabama:

Section 1. The Law Enforcement Division of the Alabama Alcoholic Beverage Control Board, for the procurement of evidence to aid in drug and narcotic criminal enforcement of the laws of this State, is hereby authorized to establish a fund known as the "Cost of Evidence Fund" in the amount of fifty thousand dollars. This fund is to be administered by the Administrator of the Alcoholic Beverage Control Board, and upon his approval the State Comptroller shall draw a warrant on the State Treasury to create this fund. It shall be the responsibility of the Administrator of the Alcoholic Beverage Control Board to insure that the fund is maintained at fifty thousand dollars, or as nearly thereto as possible, and upon presentation to the Comptroller of the properly documented expenditures the Comptroller shall cause his warrant to be drawn to replenish this fund. Said fund shall be managed by the Administrator of the Alcoholic Beverage Control Board to make such distributions from this fund to Alcoholic Beverage Control Board agents as he deems necessary.

Section 2. The Alabama Alcoholic Beverage Control Board is hereby authorized to expend monies for the purposes authorized in Section 1 of this Act, which monies shall be paid from the funds appropriated to the Law Enforcement Division of the Alcoholic Beverage Control Board for "Other Expenses."

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-700

S. 164—Kirkland and Mitchem

AN ACT

To amend Section 33-5-10 of the Code of Alabama 1975, relating to certificates of

boat registration, so as to require certain officials in the state to issue annual certificates of registration for boats.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 33-5-10 of the Code of Alabama 1975, relating to certificates of boat registration, is hereby amended to read as follows:

“§ 33-5-10. (a) The department of conservation and natural resources will issue annual certificates of registration directly and shall authorize all probate judges in the state or any other official in the state who is presently authorized to issue automobile license plates to issue annual certificates of registration and numbers in connection therewith. In conformity with this chapter and any rules and regulations which may be validly issued by the department of conservation and natural resources, the department of conservation and natural resources shall assign to each issuing officer in said county a block of numbers and certificates therefor which upon issued the issuing officer shall be allowed a fee of 50¢ for each certificate issued by him in counties where the probate judge or issuing officer is on the fee system, the issuing fee shall be retained by the probate judge, and, in counties where the issuing officer or probate judge is on a salary basis, the fee shall be paid to the county treasury. The issuance fee provided for herein shall be in addition to the amount of the boat registration fee.

“(b) All registration money, except the 50¢ fee allowed as aforesaid, shall be remitted monthly to the department of conservation and natural resources not later than 10 days after the first of each month. The department of conservation and natural resources shall transmit all money received by it to the state treasurer, there to be deposited in a fund to be known as the ‘state water safety fund.’

“(c) All moneys received out of the sale of licenses under the provisions of this chapter may be used by the commissioner of the department of conservation and natural resources for all purposes reasonably necessary in the cost of administration of this chapter, including the printing of certificates of registration, postage and transportation charges, clerical, personnel, equipment purchases, salaries and other expenses for each year; except, that no funds collected under the provisions of this chapter may be used to supplement or pay the salaries of any enforcement officers other than those hired specifically for the purposes of administering the provisions of this chapter. The commissioner of the department of conservation and natural resources shall expend such moneys as may be appropriated to said marine police division, in such manner

as the commissioner of conservation and natural resources may deem necessary and appropriate; provided, however, that such appropriations may be expended only for the purposes designated by the legislature and in the amounts provided therefor in the general appropriation bill and shall be budgeted and allotted in accordance with the provisions of article 4 of chapter 4 of Title 41. It is the intent of the legislature that the department of conservation and natural resources utilize existing personnel and equipment of that department and of the sheriffs of this state to the maximum possible extent in enforcing and administering this chapter, to the end that there be no costly duplication of services."

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-701

S. 169—Pearson

AN ACT

Relating to the appointment of a curator of the property of persons residing in this state who shall become physically incapacitated, feeble-minded or epileptic, or so mentally or physically defective by reason of age, sickness, the use of drugs, excessive use of alcohol or other causes, and authorizing such curator to take charge of, manage and conserve the property of such person and relating to the effect of the appointment of a curator as to any such person.

Be It Enacted by the Legislature of Alabama:

Section 1. Curators, appoinment of - Any probate court, in the exercise of its equity jurisdiction, may appoint a curator to take charge of, manage and conserve the property of any person permanently or temporarily residing in this state, who shall become physically incapacitated, or feeble-minded or epileptic or so mentally or physically defective by reason of age, sickness, use of drugs, the excessive use of alcohol, or for other causes that he or she is unable to take care of his or her property, and in consequence thereof, is liable to dissipate or lose the same, or to become the victim of designing persons.

Section 2. Petition for - The jurisdiction of the court shall be invoked by the filing of a petition in the probate court of the county of his or her residence by the person for whose property a curator is sought; or by either the father, mother, brother, sister, husband,

wife or child, grandchild or next of kin of such person; and if any such relative fails to act, then by the sheriff of the county of the domicile or residence of such person, which petition shall set forth the facts and reasons why it is proper, appropriate or reasonably necessary for the best interest of such person that such appointment be made. The petition shall state names and addresses of all members of the immediate family and the names and addresses of husband or wife and next of kin, as particularly as is known to the petitioner.

Section 3. Service of petition and notice of hearing - The court shall upon filing of a petition issue a citation to the proposed ward setting forth the time and place of the hearing thereon, which said citation, together with a copy of the petition, shall be personally served upon the proposed ward in the manner provided in Rules 4(c) and (3) and 4.1 of the Alabama Rules of Civil Procedure, at least ten (10) days before the hearing. The citation shall state the nature and purpose of the proceedings and specify the legal standard by which the need for a curator is adjudged, as set forth in Sections 1 and 4 of this act, and the legal consequences which may follow from such an appointment, including those set forth in Sections 7 and 15 of this act. The citation shall further inform the proposed ward that s/he will have an opportunity at the hearing to present evidence and to cross-examine adverse witnesses, and that the court will appoint an attorney to represent the proposed ward if s/he has no legal counsel of his or her own.

Notice of the nature of the hearing and of the time and place thereof shall also be mailed by the court, at least ten (10) days before the hearing, to the spouse of the proposed ward if there be one residing with the ward or known to be residing in the state.

Section 4. Conduct of the hearing; decree. The proposed ward shall have the right to be present at the hearing unless s/he or the guardian ad litem waives such right in writing. At such hearing the court shall take testimony from all witnesses who shall appear for any party to the proceedings and shall have the power to summon any witness requested by any said party. The rules of evidence shall apply, and no hearsay evidence which is not otherwise admissible in a court of law shall be admitted or considered. In such proceedings there is a legal presumption of capacity and the burden of proof shall be on the petitioner to prove by a preponderance of the competent evidence that the proposed ward is incapacitated within the definition set forth in Section 1 of this act.

If the court shall find by a preponderance of the competent

evidence presented at the hearing that the proposed ward is legally incapacitated within the definition set forth in Section 1 of this act, the court shall appoint a curator of the estate of such ward. Any interested person may intervene with leave of court in such proceedings.

Section 5. Appointment of guardian ad litem - The court shall appoint a guardian ad litem to represent at the hearing the person against whom the proceedings are taken.

Section 6. Appointment of committee at inquiry - The court shall appoint a committee consisting of two practicing physicians to inquire into the report of its findings upon the question of the disability of such person.

Section 7. Effect of decree - From and after the rendition of the decree appointing a curator, such person for whom appointed shall be a ward of the court appointing such curator, and the ward shall be wholly incapable of making any contract of gift whatever, or any instrument in writing, of legal force and effect, except after leave of court is granted upon a hearing after notice to the curator and such next of kin as the court shall order given notice of application.

Section 8. Bond of curator - The curator so appointed shall before entering upon his duties, file with the probate court a good and sufficient bond, approved by the probate judge, with such surety or sureties as required of a guardian's bond, payable to the judge of the probate court in such penal sum as the court shall determine by order and conditioned to faithfully perform his duties according to the requirements of law and orders of the court.

Additional bond - The court may at any time require of the said curator such additional or larger bond as may seem to be proper or necessary to protect the interests of the ward.

Section 9. Court to direct allowance for ward - The court appointing such curator shall have full power over the estate of the ward and allowances to or for the said ward, and may allow and assess against the estate of the ward all reasonable costs incurred in procuring the appointment of said curator and during the curatorship; and shall have full power to enter a decree for the selling, mortgaging or leasing of the real or personal property of the said ward, after the court shall have made an affirmative finding that a mortgage sale or lease for such purposes is reasonably necessary or expedient (a) for the maintenance and support of the ward or to secure advances for the same or (b) to discharge existing liens, or (c) to protect the ward's estate; such sale, mortgaging or

leasing shall be upon such terms and rates as shall be approved by the court, but no property of the ward shall be mortgaged at a rate of interest greater than the legal rate of interest.

Section 10. Special curator - After a curator is appointed and qualified he may move the court for the appointment of a "special curator," to prosecute any causes of action, suits or claims or to recover any property or other assets of the ward or to establish any rights in respect to the ward's estate, and such appointee shall have such powers, duties and responsibilities in respect thereto as the court shall prescribe, to the same extent and with the same limitations as would the principal curator.

Section 11. Curator's account; procedure for confirmation - Every curator shall file annually, and as often as otherwise ordered, in the court making said appointment, a full accounting of the administration of said trust. The curator shall present his accounts to the court in debit and credit form and shall petition the court to have them examined, approved and confirmed finally. The court shall by order direct to whom and what notice, if any, shall be given of the hearing of the petition or motion for approval.

Section 12. Audit and examination of accounts - After filing proof of the service of the notice, the court may thereupon examine or audit the accounts, or may appoint an examiner or auditor to examine and audit such accounts and report thereon to the court.

After the examination or audit of any accounting is completed, the court shall approve or disapprove the same, or any item thereof; and the court may at any time before the curator has been finally discharged, after notice, enter judgement against the curator and his sureties for failing to comply with or abide by the terms and conditions of his bond.

The cost of the audit or examination shall be paid out of the estate, as the decree of the court shall otherwise direct.

Section 13. Same - Upon the death or restoration to legal capacity of the ward, the curator shall file in the office of the probate judge a full and complete account of such items and matters as were not included in any former account confirmed finally.

Section 14. Curator and guardian, if any, to be discharged upon recovery - If, at any time the ward shall become able to properly care for himself or his property, he may petition the court, setting forth such fact; and, after a hearing, of which due notice shall be given to the curator and some one or more of the family, next of kin or next friend of the said person, as the court shall order,

and after the appearance of the ward before the court, if the court shall find that the said person has regained the ability to properly care for his property, the court shall decree accordingly, and shall thereafter discharge the curator upon the rendition of a proper accounting and after same has been confirmed after notice and hearing.

Section 15. Except as herein otherwise provided, a curator shall have the powers and be subject to the same duties over and concerning the property of a ward as may be by law had and exercised by the guardians of the property of infants, and the court shall have and exercise the same powers touching such curator and the property of such person as may be by law had and exercised touching the guardian of the property of infants.

Section 16. Appeals - Any orders or decrees of the probate court relating to a curatorship may be reviewed as are other orders of such court, and such an appeal may be taken by any person as next friend of the ward or by the curator or by the petitioner.

Section 17. The provisions of this act are cumulative and shall not be construed to repeal or supersede any laws or parts of laws not directly inconsistent herewith.

Section 18. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 19. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-702

S. 221—Mitchem and Kirkland

AN ACT

To authorize the Pesticide Residue Laboratory heretofore established by the Department of Agriculture and Industries at Auburn University under authority of Title 2, § 2-27-30, 2-27-31 and 2-27-32 of the Code of Alabama of 1975 to conduct analytical work for harmful drug residues as may be found in raw or processed agricultural and other food products, fish, game and other wildlife for the protection of the public health, aid in developing and expanding markets for agricultural products and for the protection of fish and wildlife.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to the powers and authority heretofore

authorized by law pursuant to Title 2, §§ 2-27-30, 2-27-31 and 2-27-32, Code of Alabama 1975, the Pesticide Residue Laboratory heretofore established and now operated by the Department of Agriculture and Industries at Auburn University shall also be authorized to obtain reliable analysis of raw and processed agricultural products and other food products, fish, game and other wildlife to detect the presence of any harmful drug residues for the protection of public health, to aid in developing and expanding markets for agricultural products and for the protection and production of fish and wildlife and related purposes, which activities shall be in addition to the duties as now authorized by law for the operation of such laboratory.

Section 2. This act shall become effective immediately upon its passage and approval by the governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-703

S. 231—Hall

AN ACT

To amend Section 3-1-12 of the Code of Alabama 1975 providing for the offense of cruelty to animals so as to include the abandonment of an animal within such offense and provide penalties therefor.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 3-1-12 of the Code of Alabama 1975 is amended to read as follows:

“§ 3-1-12. Any person who tortures, torments, cruelly beats, mutilates, cruelly kills, overrides, overloads or inflicts any unnecessary cruelty upon any animal, and whoever, having charge, custody or control of any animal, either as owner or otherwise, inflicts any unnecessary cruelty on, or who abandons or fails to provide the necessary sustenance, water and proper shelter for any such animal, must upon conviction, be fined not more than \$500.00, and, in addition thereto, may be sentenced to the county jail for not more than three months. This section shall not apply to the dehorning of cattle and normally accepted animal husbandry practices, nor to the use of animals in connection with medical or scientific teaching or research.”

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-704

S. 288—Pearson

AN ACT

To amend Section 41-15-10, Code of Alabama 1975, so as to authorize the finance director to invest state insurance funds in the same types of securities as the employees' retirement system may invest said system's funds.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 41-15-10, Code of Alabama 1975, is hereby amended to read as follows:

“§ 41-15-10.

“All premiums and earnings collected under the provisions of this chapter shall constitute a trust fund to be applied as authorized in this chapter.

“With the approval of the governor, any surplus in the fund over a necessary working capital, which shall be determined by the director of finance, at not less than \$400,000.00, may be invested in the bonds or other obligations of the United States, of the state of Alabama or of any agency, institution or instrumentality of the state of Alabama. The director of finance shall also have the authority to invest and reinvest said state insurance trust funds in such classes of bonds, mortgages, common and preferred stocks, shares of investment companies or mutual funds or other investments as the finance director with the consent of the Governor may approve, subject to all the terms, conditions, limitations and restrictions imposed by the laws of Alabama upon domestic life insurance companies in the making of their investments. Subject to like terms, conditions, limitations and restrictions, the finance director shall have full power to hold, purchase, sell, assign, transfer, and dispose of any such investments, as well as the proceeds of said investments. The necessary working capital may also be invested and reinvested by the finance director in securities deemed to be cash equivalents. Any and all funds derived from operations under this chapter shall be subject to requisition by the director of finance, approved by the governor, for the payment of losses, necessary expenses of administering this chapter and for investment.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

AN ACT

To permit business and nonprofit corporations to give, pay, expend or contribute money, or services or anything of value for the purposes of establishing, administering or soliciting voluntary contributions to a separate, segregated fund to be utilized for political purposes including aiding or promoting the nomination or election of any person who is or becomes a candidate for political or party office and aiding or promoting the interest and success, or defeat of any political party or proposition; to regulate the solicitation of contributions to such separate, segregated funds; and to amend Title 17, Section 17-22-3, entitled "Corrupt practices enumerated generally" and Title 10, Section 10-2-168, entitled "Giving aid or contributions to political parties or candidates, etc.", Code of Alabama (1975) to provide that it shall not be unlawful for any corporation to expend or contribute money or services or anything of value for the purposes of establishing, administering, or soliciting voluntary contributions to a separate, segregated fund established and administered pursuant to the provisions of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. Any business or nonprofit corporation, incorporated under the laws of or doing business in this state, or any officer or agent acting in behalf of such corporation may give, pay, expend or contribute money, or services or anything of value for the purposes of establishing, administering or soliciting voluntary contributions to a separate, segregated fund to be utilized for political purposes (1) to aid or promote the nomination or election of any person, including an incumbent political officeholder or any other person who is or becomes a candidate for political office; or (2) to aid or promote the interest or success, or defeat of any political party or political proposition. Any separate, segregated fund, established hereunder for any of the above enumerated purposes shall be established and administered pursuant to the following requirements and prohibitions:

(1) Any business or nonprofit corporation incorporated under the laws of or doing business in this state, or any officer or agent acting in behalf of such corporation which has established a separate, segregated political fund or any separate, segregated fund established by such corporation or officer or agent acting in behalf of such corporation may solicit voluntary contributions to such fund only from such corporation's stockholders and their families and its employees and their families; or in the case of a nonprofit corporation, its members and their employees. However, such funds may accept voluntary contributions from any individuals or from any other separate, segregated political funds.

(2) The custodians of any separate, segregated political fund established hereunder shall file with the office of the Secretary of State of the State of Alabama such financial disclosure reports or

statements now required of a candidate for public office. Filing with the Secretary of State a copy of the information required to be filed with the Federal Election Commission by such separate, segregated fund shall constitute compliance with the reporting provisions of this act.

(3) It shall be unlawful:

(A) For any separate, segregated political fund established pursuant to this section or for any person acting in behalf of such fund to solicit or secure any money or anything of value by physical force, job discrimination or financial reprisals, or by threats thereof; by dues, fees or other monies required as a condition of employment or by monies obtained in any commercial transaction;

(B) For any person soliciting contributions to such fund to fail to inform any person being solicited of the political purposes of such fund at the time of such solicitation; and

(C) For any person soliciting for a contribution to such fund to fail to inform the person being solicited, at the time of such solicitation, of his right to refuse to contribute without any reprisal.

(D) For any corporation regulated by the Public Service Commission to pass on to its customers any contribution made for the purpose of establishing, administering or soliciting voluntary contributions to a separate, segregated fund to be utilized for political purposes.

Section 2. Title 17, Section 17-22-3, Code of Alabama (1975), entitled "Corrupt practices enumerated generally", is hereby amended to read as follows:

"It is a corrupt practice for any person directly or indirectly by himself or through any other person to commit any of the following acts:

(1) Aid or procure the commission of any act forbidden to be done by the laws of this state relating to elections;

(2) For any election inspector or other election officer to fail to perform any of the duties imposed upon him by law as such officer;

(3) The commission of any crime or offense against the elective franchise, or the encouragement or assistance of a person in the commission of a crime or offense against the elective franchise or aiding or assisting any person charged with the commission of a crime or offense against the elective franchise to evade arrest or escape conviction and punishment for such crime or offense, or the providing wholly or in part for the expense of boarding, lodging or

maintaining a person at any place or domicile in any election precinct for the purpose of securing the vote for himself or any other person or proposition, or of registering any person as voter at any election held within this state, or the hiring or employment of a person to take or maintain a place in or otherwise obstruct or hinder or to prevent the forming of the line of voters awaiting their opportunity or time to enter the polling place of any election;

(4) Demand, solicit, ask or invite any payment or contribution for any religious, charitable or other cause or organization supposed to be primarily for the public good from any candidate for nomination or election;

(5) Demand, solicit, ask or invite any candidate for nomination or election for public office or party position or any political committee to subscribe for the support of any club or organization, or to buy tickets to any entertainment or ball or to pay for space in any book, program, periodical or publication. This shall not apply to the solicitation of any business advertising in periodicals in which the candidate was a regular advertiser prior to his candidacy, nor to ordinary business advertising, nor to the regular demands of any organization, religious, charitable or otherwise, of which he was a member, or to which he was a contributor for more than six months before his candidacy, or to any ordinary contributions at church services;

(6) For any corporation or person, trustee or trustees, owning or holding a majority of stock of a corporation carrying on the business of a bank, savings bank, trust, trustee, savings indemnity, safety deposit, insurance, railroad, street railway, telephone, telegraph, gas, electric light, heat or power company, or any company having the right to condemn land or to exercise franchises in public ways granted by the state, county, city or town, to pay or contribute any money or value in order to aid or promote the nomination or election of any person, or in order to aid or promote the interest or success, or defeat, of any political party or political proposition;

(7) For any business corporation incorporated under the laws of or doing business in this state, or any officer or agent acting in behalf of such corporation, to directly or indirectly give, pay, expend or contribute, or promise to give, pay, expend, or contribute, any money or other valuable thing in order to aid, promote or prevent the nomination or election of any person, or defeat any question or proposition submitted to the vote of the people, or in order to aid, promote or antagonize the interests of any political party; or

(8) For any person or persons or political committee to solicit or receive from such corporations any such gift, payment, expenditure or contribution, or any promise to give, pay, expend or contribute.

Notwithstanding the provisions of this section, it shall not be unlawful for any business or nonprofit corporation, incorporated under the laws of or doing business in this state, any officer or agent acting in behalf of such corporation, or any entity described in subsection (6) of this section, to give, pay, expend, or contribute money, services or anything of value for the purposes of establishing, administering or soliciting voluntary contributions to a separate, segregated fund to be utilized for political purposes as permitted by Section 1 of this act. Provided, that no corporate funds will be a part of such separate, segregated fund, and any political contribution from such fund will be in the form of money and in no other form whatsoever.

Section 3. Title 10, Section 10-2-168, Code of Alabama (1975), entitled "Giving aid or contribution to political party or candidate, etc." is hereby amended to read as follows:

"Any corporation, incorporated company or incorporated association, by whatever name it may be known, incorporated or organized under the laws of this state or doing business in this state, or any servant, agent, employee, or officer thereof, who shall give, donate, appropriate or furnish, directly or indirectly, any money, securities, funds or property of said corporation, incorporated company or incorporated association for the purpose of aiding any political party or any candidate for any public office or any candidate for any nomination for any public office by any political party or who shall give, donate, appropriate or furnish, directly or indirectly, any money, security, funds or property of said corporation, incorporated company or association to any committee or person as a contribution to the expenses of any political party or any candidate, representative or committee of any political party or candidate for nomination by any political party or any committee or other person acting in behalf of such candidate shall be guilty of a misdemeanor and, on conviction, shall be fined not less than \$100.00, nor more than \$2,000.00, at the discretion of the jury trying the case. Notwithstanding the provisions of this section, it shall not be unlawful for any business or nonprofit corporation incorporated under the laws of or doing business in this state, or any officer or agent acting in behalf of such corporation to give, pay, expend or contribute money, services or anything of value for the purposes of establishing, administering or soliciting voluntary contributions to a separate, segregated fund to be utilized for political purposes as

permitted by Section 1 of this act. Provided, that no corporate funds will be a part of such separate, segregated fund, and any political contribution from such fund will be in the form of money and in no other form whatsoever.

Section 4. All laws or parts of laws which conflict with this Act are repealed.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-706

S. 359—Hall

AN ACT

Requiring insurers to furnish to certain fire officials certain information relating to their investigations of certain types of property fire losses; to prescribe evidentiary rules relating to the use of such information and to prescribe penalty for violation.

Be It Enacted by the Legislature of Alabama:

Section 1. As used in this Act, the word "insurer" shall have the same meaning ascribed to it as is in Section 27-13-20 of the Code of Alabama 1975.

Section 2. The state Fire Marshal or personnel from any other authorized law enforcement agency charged with the responsibility of investigating a fire loss, may request any insurer investigating a fire loss of real or personal property to release any factual information in its possession which is pertinent to this type of loss and has some relationship to the loss itself. Such insurer shall release the information and cooperate with any official authorized to request such information pursuant to this Section. The information shall include, but is not limited to:

(1) Any insurance policy relevant to a fire loss under investigation and any application for such a policy;

(2) Policy premium payment records;

(3) History of previous claims made by the insured for fire loss; and

(4) Material relating to the investigation of the loss, including statement of any person, proof of loss, and any other relevant

evidence.

Section 3. If an insurer has reason to believe that a fire loss to its insured's real or personal property was caused by other than accidental means, the insurer shall notify the state Fire Marshal or other appropriate law enforcement agency charged with the responsibility to investigate fire losses and furnish such persons with all relative material acquired during its investigation of the fire loss, cooperate with and take such reasonable action as may be requested by any law enforcement agency, and cooperate with the court and administrative agencies of the state, and any official from said Fire Marshal's office or any law enforcement agency charged with the responsibility to investigate the fire.

Section 4. (a) In the absence of fraud or malice, no insurer, or person who furnishes information on its behalf, shall be liable for damages in a civil action or subject to criminal prosecution for any oral or written statement made or any other action taken that is necessary to supply information required by this Act.

(b) The officials and departmental and agency personnel receiving any information furnished pursuant to this Act shall hold the information in confidence until such time as its release is required pursuant to a criminal or civil proceeding.

(c) Any official referred to in Section 2 of this Act may be required to testify as to any information in his possession regarding the fire loss of real or personal property in any civil action in which any person seeks recovery under a policy against an insurance company for the fire loss.

(d) No person shall purposely refuse to release any information requested, pursuant to Section 2 of this Act, by a Fire Marshal, the Chief or Deputy of an Arson Squad or Bureau, the Chief of a Fire Department or a Fire Prevention Officer.

(e) No person shall refuse to make the necessary notification of a fire loss pursuant to Section 3 of this Act.

(f) No person shall refuse to supply to the proper authorities pertinent information required to be furnished pursuant to Section 3 of this Act.

(g) No person shall fail to hold in confidence information required to be held in confidence by Section 4(b) of this Act.

Section 5. Any person violating the provisions of subsections (d), (e), (f) and (g) of Section 4 of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not less than \$100.00 nor more than \$500.00. It shall not be

considered a violation of this Act if an insurer in good faith, believes it has done everything required of it under this Act.

Section 6. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 7. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 8. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-707

S. 386—Holmes

AN ACT

To prohibit the expenditure of state funds for the purpose of erecting or maintaining signs designating roads, bridges or buildings in honor or in memory of any individual.

WHEREAS, during the fiscal year ending September 30, 1976, the state highway department spent in excess of \$44,000 erecting and maintaining signs naming roads and bridges in honor or in memory of certain individuals; and

WHEREAS, such signs are a favorite target for vandals, thus escalating the maintenance costs for such signs; and

WHEREAS, the money spent to erect and maintain such signs could better be spent in constructing, maintaining and repairing roads; now therefore

Be It Enacted by the Legislature of Alabama:

Section 1. After the effective date of this act, no state funds shall be expended in this state for purposes of erecting and maintaining signs designating roads, bridges or buildings in honor or in memory of any individual. Provided, however, that the state highway department may continue to prepare and erect such signs so long as the actual cost of such preparation and maintenance is paid for by private funds or city or county government funds.

Section 2. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective on the first day of the first month next following its passage and approval by the Governor, or its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-708

S. 437—Goodwin

AN ACT

To amend Section 25-2-12, Code of Alabama, 1975, as last amended, which relates to the Board of Appeals for the State of Alabama, Department of Industrial Relations.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 25-2-12, Code of Alabama, 1975, is hereby amended to read:

§ 25-2-12. Board of Appeals -- Created; composition; qualifications, appointment, terms of office, compensation and removal of members; alternate members; quorum; conflicts of interest.

There shall be a Board of Appeals for the Department of Industrial Relations. The Board of Appeals shall exercise its own judgment and discretion in all matters entrusted to it, and, to that extent, shall be entirely separate and distinct from and independent of the Department of Industrial Relations, but it shall have offices with the Department of Industrial Relations, and an employee of the Department of Industrial Relations shall act as its Clerk. All proper expenses of the Board of Appeals shall be paid from the appropriations to the Department of Industrial Relations in the same manner as expenses of the department are paid. There shall be three members of the Board of Appeals, all of whom shall be appointed by the governor, subject to confirmation by the senate, for a term of office of six years or until their successors are appointed; except, that the first appointments of members of the Board of Appeals shall be for terms of two, four and six years respectively. One member of the Board shall be a person who, on account of his previous employment or affiliations, shall be generally classified as a representative of employers. One member of such Board shall be a person who, on account of his previous employment or affiliations, shall be generally classified as a representative of employees. One member of the Board shall represent the interest of the public, shall not be generally classified as a representative of employers or of employees and shall be the

chairman of the Board of Appeals. Before entering upon the discharge of his duties, each member of the Board of Appeals shall take the constitutional oath of office. No member of the Board of Appeals shall be employed by the federal government or the state. Members of the Board of Appeals shall receive no salary but shall be paid for each day or part thereof necessarily spent in the discharge of their official duties, including travel time, an amount to be agreed upon by the Director of Industrial Relations and the Governor, the same not to exceed \$50.00 per day. The sum total to be paid to each member of the Board in the first six months of any calendar year shall not exceed \$3,000 with a like maximum sum total of \$3,000 in the last six months of any calendar year, plus expense allowance as provided in Article 2 of Chapter 7 of Title 36; except that when it has been determined by the Director of Industrial Relations that the number of appeals pending before the Board of Appeals shall require that the Board meet and hold hearings on more than twenty-four days during the first six months or during the last six months of any calendar year the sum total to be paid to each member of the Board during such first six months or such last six months of any calendar year shall be increased proportionally as determined by the Director but in no event to exceed \$4,000 plus travel allowance during either the first six months or the last six months of any calendar year. Members of the Board of Appeals shall be subject to impeachment as are other state officers. Vacancies for any reason shall be filled by appointment by the Governor for the unexpired term, and any appointments made while the senate is not in regular session shall be effective ad interim. No member of the Board of Appeals shall hear or determine an appeal in any case in which he is a directly interested party. The Board of Appeals shall not hear or determine any appeal unless each of the three members thereof or their alternates are present. The Governor shall immediately, whenever it is shown to his satisfaction that a member of the Board of Appeals is disqualified for any reason or cannot attend a session of the Board of Appeals, appoint an alternate or alternates for the member or members so disqualified or absent.

Section 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and for this purpose the provisions of the act are severable.

Section 3. All laws or parts of laws in conflict herewith are hereby repealed.

Section 4. This act shall become effective immediately upon

its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-709

S. 461—Denton

AN ACT

To provide that it shall be a nuisance and unlawful for anyone to willfully throw or cast artificial lights or rays of artificial light from any motor vehicle in any field, or other real property where a residence or out building, other structure or livestock exists with the exception of farmers who may do so while checking livestock on owned, leased or rented land; and to provide for penalties.

Be It Enacted by the Legislature of Alabama:

Section 1. It shall be deemed a nuisance and shall be unlawful for any person, or one or more of a group of persons together, between the hours of 10 p.m. and daylight, to willfully throw or cast, or cause to be thrown or cast, in a continuous and repeated manner, the rays of a spotlight, headlight, or other artificial light from any motor vehicle or with the aid of any motor vehicle, while the motor vehicle is on any highway or public road and casting said light on any real property, or in any field, where any residence, out building, other structure or livestock exists. The provisions of this section shall not apply to farmers while checking livestock upon land which they own, lease or rent.

Section 2. Any violation of the provisions of this act shall be a misdemeanor and punishable by a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00).

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this act are hereby repealed.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-710

S. 501—Little

AN ACT

To amend Section 38-2-12, Code of Alabama 1975, relating to the authority of the Commissioner of the State Department of Pensions and Security to destroy certain obsolete records, so as to reduce the retention requirement on certain case record material from ten to five years.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 38-2-12, Code of Alabama 1975, relating to the authority of the Commissioner of the State Department of Pensions and Security to destroy certain obsolete records is hereby amended to read as follows:

“Section 2. (a) The commissioner of the state department of pensions and security shall have the authority to destroy or cause to be destroyed, in his discretion:

(1) **RECORDS OF CERTAIN AGENCIES.**--All records of the Alabama relief administration, the Alabama transient bureau and surplus commodity distribution presently in the custody and under the control of the state department of pensions and security.

(2) **OBSOLETE COUNTY CASE RECORD MATERIAL.**--Obsolete case record material in the custody of county departments, subject to the following conditions:

a. Case record material concerning old age pensions, aid to the blind, aid to the permanently and totally disabled, aid to dependent children, and temporary aid shall be preserved for a period of at least five years from and after the date of the last contract with the county department by the subject of such material.

b. All fiscal audits for the period in which the cases covered by such case record material were receiving assistance or service shall have been completed; provided, however, that nothing in this section shall prohibit the commissioner from exercising the authority to destroy case record material which has been photographically recorded in accordance with Section 38-2-11, Code of Alabama 1975.

(3) **CANCELLED COUNTY CHECKS.**--All cancelled checks issued by and filed in county departments from the inception of the public welfare program in 1935 to October 1, 1951; provided, that records showing the payments evidenced by such checks must be preserved in either the state department or the county department.

(4) **CERTAIN FILES.**--Statements contained in case record files made by recipients and their relatives as required by Act No. 694 of the 1951 Legislature of Alabama.

(5) **RECORDS RELATING TO SURPLUS COMMODITIES.**--Case record material concerning the distribution of surplus commodities received from the United States departments of agriculture and related records and reports concerning the handling and distribution of such surplus commodities; provided that such case record material and records and reports shall be preserved for a period of at least three years from and after the close of the state fiscal year to which they pertain.

(b) In effecting the destruction of records permitted by the section, the commissioner shall establish reasonable rules and regulations insuring that the confidentiality of records shall be preserved during the process of destruction."

Section 3. This act shall take effect immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-711

H. 122 --McMillan, Warren

AN ACT

To establish and provide for the Forestry Study Committee; and to make an appropriation from the general fund to implement the provisions hereof.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby established the Forestry Study Committee. Such committee shall be composed of fifteen members. The Speaker of the House and the President of the Senate each shall appoint three members from the respective houses; the State Forester shall be a member and serve as Secretary and the Alabama Cooperative Extension Service Extension Forester shall be a member; and the Governor shall appoint seven members. The appointees shall represent forest land ownership, forest industries, education, other forest-related interests and other citizens whose knowledge will be valuable to the committee's work.

(a) The committee shall hold an organizational meeting at the state capitol, within ten days after the appointments are made, and elect a chairman from among its members. Thereafter, the

committee shall meet on the call of the chairman or a majority of its members and shall adopt its own rules of procedure for the conduct and transaction of business.

(b) The duty of the committee shall be to make a complete study and needs assessment of all facets of the Alabama Forestry program, including but not limited to: (1) problems related to forest fires, their occurrences, causes, acreage burned, damages, and whether legally or illegally set; (2) fire prevention and control in the state forests, the adequacy of prevention, detection, reporting, suppression and law enforcement measures; (3) resource management practices and industrial development related to the Forestry program; and (4) the effects and impact of both state and federal environmental legislation and regulations on Forestry practices and landowner prerogatives and options.

(c) Non-legislative members shall be entitled to per diem and travel expenses, now provided by law, for each day of actual attendance at committee meetings, legislative members shall be entitled to their regular legislative compensation, per diem and travel expenses for each day of actual attendance at committee meetings, upon warrants drawn on the state comptroller upon requisitions signed by the committee's chairman provided, however, that members shall not receive additional legislative compensation or per diem when the legislature is in session.

(d) There is hereby appropriated the sum of three thousand dollars (\$3,000) from the general fund of the state treasury for the purpose of implementing the provisions of this Act. In addition, any sums appropriated to the steering committee established under the provisions of Act No. 515, S. 370, 1978 Regular Session (Acts of 1978, p. 569), that remain unexpended are hereby transferred and appropriated to the use of the committee provided for in this Act. Any unspent funds herein directly appropriated or transferred shall not revert to the general fund at the end of the state fiscal year but may be expended in succeeding years by the Forestry Study Committee for the expenses incurred for said Forestry Study Committee.

(e) The chairman and committee may employ such clerical, legal, technical and expert assistance as the committee may find necessary in performing its duties.

(f) The committee shall publish a report of its findings and recommendations for distribution to the public.

(g) At the conclusion of its annual study and evaluation, the committee shall report its findings and recommendations to the

Governor, Lieutenant Governor, and Speaker of the House on the 15th day of January each year.

Section 2. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 3. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-712

H. 782—Harvey

AN ACT

Relating to Blount County; to provide an additional expense allowance of \$100.00 per month for the members of the county board of education.

Be It Enacted by the Legislature of Alabama:

Section 1. In Blount County, the members of the county board of education are hereby granted an additional expense allowance in the amount of \$100.00 per month. Said expense allowance shall be in addition to any and all other salary compensation and expense allowances provided for by law and shall be paid out of the same funds as are used to pay other compensation of the board members.

Section 2. The provisions of this act shall become effective on the first day of the month next succeeding the date when this act becomes law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-713

H. 928—Greer

AN ACT

Relating to the eleventh judicial circuit; providing for a county salary supplement for the circuit judges and the presiding district judge of the eleventh judicial circuit, and to provide the means and manner for the payment of same.

Be It Enacted by the Legislature of Alabama:

Section 1. Each circuit judge and the presiding district judge of the eleventh judicial circuit composed of Lauderdale County, Alabama, shall be paid as a supplemental salary to that paid by the state, from the general funds of the county, in equal monthly installments, a sum equal to 33 1/3% of the salary paid said circuit judges by the State of Alabama, and 20% of the salary paid said presiding district court judge by the State of Alabama. The governing body of Lauderdale County is hereby authorized, empowered, and directed to pay the supplemental salaries provided herein to each such circuit and presiding district court judge out of the funds of the county or any other funds as may be available for such purpose; and such salary shall be in addition to any other salary, compensation, allowance, or expenses provided by law but shall be in lieu of any other supplemental salary paid by the county.

Section 2. Act No. 536, H. 1379, Regular Session 1973 is hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-714

H. 55—Owens

AN ACT

To amend Section 40-17-31, Code of Alabama 1975, which relates to the excise tax on gasoline, so as to increase the minimum amount of annually accumulated excise tax proceeds on aviation fuel, upon which the commissioner of revenue grants a percentage tax reduction.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 40-17-31, Code of Alabama 1975 is hereby amended to read as follows:

“Section 40-17-31. (a) Every distributor, refiner, retail dealer, storer or user of gasoline shall collect and pay over to the state department of revenue an excise tax of \$.07 per gallon upon the selling, use or consumption, distributing, storing or withdrawing from storage in this state for any use of gasoline as defined or otherwise referred to in this article, except gasoline sold for use as fuel to propel aircraft and which gasoline is subject to the

tax imposed in subsection (d) of this section; provided, that where any excise tax imposed by this section upon the sale, use or consumption, distribution, storage, withdrawal from storage in this state of such gasoline shall have been paid to the state by a distributor, refiner or by any retail dealer, storer or user, such payments shall be sufficient, the intent being that the tax shall be paid to the state but once.

“(b) The state department of revenue is hereby authorized to issue to the United States certificates of exemption, upon forms prescribed by the department for use by the United States in purchasing gasoline or other fuels taxed by this section within the state of Alabama and which is paid for by the United States. Any person in reporting and paying the tax to the department may deduct the number of gallons of gasoline or other fuels taxed by this section sold to the United States, as shown by such certificate of exemption duly executed by the United States and filed with such report, and the department is authorized to adopt rules and regulations with respect to the issuance and use of such certificates.

“(c) The revenue, less the cost of collection and all refunds authorized by law, obtained from the \$.07 excise tax on gasoline, naphtha and other liquid motor fuels, or any device or substitute therefor commonly used in internal combustion engines, as is provided for in this section, shall not be used for any purposes other than the following, namely:

“(1) The legislature hereby finds as a fact that all of the gasoline sold in this state not less than thirty-five one hundredths of one percent thereof is used for modern purposes to propel vessels on inland and coastal waterways of this state. The legislature hereby declares that it is the policy of this state to use the funds derived from the sale of marine gasoline to improve boating and boating facilities, seafoods and salt water sports fishing in this state. Thirty-five one hundredths of one percent of all state imposed taxes collected on the sale of gasoline (except gasoline and other fuels consumed in airplanes) shall be credited as follows: sixty percent to the state water safety fund of the water safety division and forty percent to the seafood fund of the seafood division.

“(2) The revenue arising from the sale of gasoline as herein defined, except gasoline sold for use as fuel to propel aircraft and which gasoline is subject to the tax imposed in subsection (d) of this section, for all other purposes shall not be used for any purpose other than for the construction, improvement, maintenance and supervision of highways, bridges and streets, including the retirement of bonds for the payment of which such revenues have

been or may hereafter be pledged. The payment of the per diem and mileage of members of county governing bodies when engaged in supervising the construction, improvement and maintenance of highways, bridges and streets, shall be construed as used in supervision; however, the governing body of each county is authorized to expend an amount not to exceed one third of the total amount of such revenue that may be received by such county in the payment of any debt that may have been incurred by such county for the construction or maintenance of roads or bridges. This fund shall be allocated in the manner now provided by law. On the twentieth day of each month following that quarter of any fiscal year, all revenue derived from the sale of gasoline to be consumed in the motor of a boat or vessel as defined in subdivision (1) of this subsection shall be allocated to the state water safety fund and seafoods fund.

“(d) (1) Every distributor, refiner, retail dealer, storer or user of gasoline or any substitute or device therefor sold for use as a fuel to propel aircraft shall collect and pay over to the state department of revenue an excise tax in accordance with the following schedule upon the selling, use or consumption, distributing, storing or withdrawing from storage in this state for use as a fuel to propel aircraft:

“a. Gasoline or other fuel used to propel aircraft powered by reciprocating engines shall be taxed at the rate of two and seven-tenths cents per gallon.

“b. Any fuel used to propel aircraft powered by jet or turbine engines shall be taxed at the rate of nine-tenths of one cent per gallon.

“(2) On July 31, 1977, or as soon thereafter as practicable, and at the same time in every year thereafter, the commissioner of revenue shall determine the total number of gallons of fuel upon which the tax levied in subdivision (1) of this subsection has been reported and paid to the state during the preceding 12-month period, and at the same time he shall ascertain the total net amount of revenue produced by the tax levied thereon. If the net proceeds of the tax for such period amount to more than \$650,000.00, the rate of tax shall be reduced in decrements of three tenths of one cent per gallon with respect to the tax levied in paragraph a of subdivision (1) of this subsection and in decrements of one tenth of one cent per gallon with respect to the tax levied in paragraph b of subdivision (1) of this subsection to the extent required to maintain net collections for such period at a level of \$600,000.00. If at any time after such a reduction the rate of tax collections declines to the

extent that the \$600,000.00 level for a similar 12-month period cannot be maintained, the rate of the tax shall be correspondingly increased in increments of three tenths of one cent per gallon with respect to the tax levied in paragraph a of subdivision (1) of this subsection and increments of one tenth of one cent per gallon with respect to the tax levied in paragraph b of subdivision (1) of this subsection to the extent required to maintain net collections for a similar period at a level of \$600,000.00. It is the legislative intent by the above provisions to maintain collections at a \$600,000.00 level per annum.

“(3) The revenue, less the cost of collection, obtained from the tax levied in subdivision (1) of this subsection shall be paid into the state treasury and be used exclusively for the purpose of paying the cost of acquiring, engineering, construction, improvement and maintenance of existing or proposed airports and other air navigation facilities within the state, for the payment of the salary of the state director of aeronautics, the salaries of other employees of the Alabama department of aeronautics and for the payment of other administrative and aeronautical expenses of the Alabama department of aeronautics and for the further purpose of creating a sinking fund for the payment of the interest and retirement of the principal of all bonds which may be hereafter lawfully issued, sold and delivered for funds to be used exclusively for the enumerated purposes.

“(e) Every distributor, refiner, retail dealer or storer of gasoline or other fuels taxed by this section shall add the amount of excise tax levied and assessed herein to the price of the gasoline or other fuels taxed by this section, it being the purpose and intent of this provision that the tax levied is in fact a levy on the consumer or user with distributor, refiner, retail dealer or storer, or in the case of a licensed user, acting merely as an agent of the state for the collection and payment of the tax to the state.”

Section 2. This act shall become effective August 1, 1979.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-715

S. 77—Teague

AN ACT

To amend Section 29-4-42 of the Code of Alabama 1975, relating to legislative employees, so as to increase the number of supervisory and secretarial employees that may be employed by the secretary of the senate and the clerk of the house.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 29-4-42 of the Code of Alabama 1975, is amended to read as follows:

“§ 29-4-42. (a) There may be employed by the secretary of the senate and the clerk of the house, respectively, on a full-time basis and subject to regulation by the members of the legislative council of the house of representatives and the elected members of the legislative council of the senate of the state of Alabama as to the exact number, not more than the following legislative employees:

“(1) For the senate:

“a. Five supervisory employees.

“b. Fourteen secretarial employees.

“c. General employees.

“d. Three custodial employees.

“(2) For the house of representatives:

“a. Five supervisory employees.

“b. Sixteen secretarial employees.

“c. General employees.

“d. Four custodial employees.

“(b) The compensation of full-time legislative employees shall be not more than the maximum amount as has heretofore or as may hereafter be allowed by law, respectively, for the various classes of legislative employees, payable as the salaries of other state employees are paid. The exact amount of the compensation for each such category of employees shall be fixed by the members of the legislative council of the house of representatives and the elected members of the legislative council of the senate of the state of Alabama, with the advice of the secretary of the senate and the clerk of the house of representatives with respect to their respective employees.

“(c) Nothing in this section shall prevent the fixing of differing rates of compensation for individual employees within the same classification.”

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-716

H. 826—Manley, Clark, Pegues

AN ACT

To provide for an expense allowance for the judge of the 17th judicial circuit to be paid by the counties comprising the circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. The judge of the 17th judicial circuit shall receive an expense allowance of three thousand dollars (\$3,000) per annum. Said expense allowance shall be in addition to the expense allowance provided in Act 126, H. 150, 1975 3rd Special Session (Acts of 1975, p. 352) and all other compensation previously received. The county governing body of each of the counties comprising the 17th judicial circuit shall contribute an equal amount out of the county general fund for the payment of said expense allowance.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-717

H. 827—McMillan

AN ACT

Relating to Baldwin County; to provide a procedure for handling cases involving invalid personal checks given for licenses, and the voiding of such licenses.

Be It Enacted by the Legislature of Alabama:

Section 1. In Baldwin County, in cases where a personal check given for a license is found to be non-collectible for any reason, the probate judge will notify the license inspector, who will make a reasonable attempt to retrieve the license in question. In the event that the license cannot be retrieved, the license inspector will so state and such statement shall constitute authorization for the probate judge to void any license in question. Once such license has been voided, the probate judge will receive credit for the cost of the license plus the issuance fee. The appropriate state office will mark the records pertaining to the void license and, upon inquiry by law

enforcement agencies, will notify said agencies that the party in question is operating under a void license. All violations will be prosecuted in accordance with current law.

Section 2. The provisions of this act are supplemental. It shall be construed in *pari materia* with other laws relating to such matters; however, those laws or parts of laws which are in direct conflict or inconsistent herewith are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-718

H. 888—Minus

AN ACT

Relating to Choctaw County; to provide for certain annual increases in the salaries of the members of the county commission during the next four fiscal years and to provide certain expense allowances for such members with such increases and allowances payable from the county general fund.

Be It Enacted by the Legislature of Alabama:

Section 1. For four consecutive fiscal years commencing October 1, 1979, each member of the Choctaw County Commission shall be entitled to a six percent (6%) annual salary increase payable from the county general fund. In addition thereto, each member of said commission shall also be entitled to a \$100 monthly expense allowance also payable from said fund. Said allowance shall be effective on the first day of the first month next following the effective date of this act.

Section 2. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-719

H. 909—Barton

AN ACT

To repeal Act No. 669, H. 1382, Regular Session 1975 (Acts 1975, p. 1425), entitled "An Act Relating to counties having a population not less than 115,000 nor greater than 150,000, according to the latest federal decennial census; providing that the sheriff in such counties shall receive \$350 per month expense allowance, to become salary at the end of the present incumbent's term of office."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 669, H. 1382, Regular Session 1975 (Acts 1975, p. 1425), entitled "An Act Relating to counties having a population of not less than 115,000 nor greater than 150,000, according to the latest federal decennial census; providing that the sheriff in such counties shall receive \$350 per month expense allowance, to become salary at the end of the present incumbent's term of office," is hereby expressly repealed.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-720

H. 910—Barton

AN ACT

Relating to Tuscaloosa County; providing that the sheriff of said county shall receive an additional \$400 per month expense allowance, to become salary at the end of the present incumbent's term of office.

Be It Enacted by the Legislature of Alabama:

Section 1. In Tuscaloosa County the sheriff shall receive an additional expense allowance of \$400.00 per month. This expense allowance shall be in addition to all other salary, compensation and expense allowances provided for by law.

Section 2. At the end of the present incumbent's term of office, this expense allowance shall cease and he shall receive a like amount as an increase in salary.

Section 3. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this act are hereby repealed.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-721

H. 926—Hall

AN ACT

Authorizing the county commission, or like governing body, of any county to borrow the necessary funds to operate the said county in the event the tax collector is unable to collect taxes; providing when such loans may be made, for the issuance of certificates covering such loans and for the pledge of uncollected taxes to pay such loans; prescribing the maximum interest rates applicable to such loans and the dates on which such loans would be payable; limiting the use of the proceeds of such loans; providing for the registration, payment, cancellation and exemption from taxation of such certificates; requiring each such county to comply with the debt limitation of Amendment 342 to the Constitution of 1901, as amended; and repealing conflicting laws.

Be It Enacted by the Legislature of Alabama:

Section 1. The sole purpose of the loans authorized by this Act is to permit the respective counties of the state to borrow the necessary funds to continue government operations in the event the tax collectors of the said counties are not able to collect taxes owed to the counties when due because of the failure or refusal of the tax assessor to provide the tax collector with the amount of taxes due.

Section 2. In the event the tax collector of any county is unable to collect taxes beginning on the first day of October of any year because the tax assessor of such county has failed or been unable to turn over to the tax collector the amount of taxes assessed against each taxpayer as required by law, the county commission, or like governing body, of any such county, for and in behalf of such county, may make temporary loans in anticipation of the collection of such taxes and may issue certificates covering such loans and may pledge a sufficient amount of the said uncollected taxes to secure the repayment of such loan or loans.

Section 3. The county commission, or like governing body, of any such county may make separate loans on the first and fifteenth day of October and on the first and fifteenth day of each month thereafter continuing until the date on which the tax collector shall begin collecting the said taxes.

Section 4. Any loan made under the provisions of this Act

shall not be in an amount greater than the total amount collected by the tax collector in the preceding year for the same fifteen-day period, following the date of said loan, for such taxes which are uncollected. Any such loan may bear interest at a rate not to exceed 2% less than the maximum lawful interest rate chargeable to an individual under the usury laws of the State of Alabama for a similar amount of money. Any such loan shall be payable not later than ninety days after the day on which the tax collector begins collecting such taxes and may not be renewed.

Section 5. No proceeds from any loan made under the provisions of this Act shall be used for any purpose other than that for which the uncollected taxes may have been used.

Section 6. All certificates evidencing loans made under the authority of this Act shall be registered by the county treasurer in the order of their issue and the said treasurer shall retain out of the taxes collected for the year and paid over to him a sufficient amount to pay said certificates. Said certificates shall be in the order of their registration and they shall be entitled to priority of payment out of the proceeds of the taxes pledged to pay the same.

Section 7. All such certificates when paid by the treasurer shall be cancelled and such cancellation and payment shall be noted on the register and it shall be unlawful thereafter to reissue such certificates.

Section 8. All certificates issued under the authority of this Act shall be exempt from taxation.

Section 9. Nothing in this Act shall be construed to waive compliance with the provisions of Amendment 342 of the Constitution of 1901, as amended.

Section 10. The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 11. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 12. The provisions of this Act shall become null and void two years from the date of its enactment.

Section 13. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

AN ACT

Relative to Class 4 and 5, and 7 and 8 municipalities in this state having a population of not less than 25,000 and not more than 99,999 inhabitants or a population of 11,999 or less inhabitants according to the last or any subsequent Federal decennial census; authorizing each such municipality to acquire properties suitable for use by any commercial enterprise in furnishing hotel services, including food or lodging or both, and the rental of ground floor space or other accommodations to others engaged in any business, trade, profession, occupation or activity; authorizing such municipalities to lease such properties subject to certain specified requirements; authorizing such municipalities to finance the acquisition of such properties by the issuance of revenue bonds payable solely out of the revenues from the leasing of such properties and to secure such bonds by pledges of such revenues and leases and by mortgages on such properties; providing that all such bonds shall be negotiable instruments; authorizing the refunding of any such bonds; providing for remedies in the event of default respecting any bonds issued under the act; exempting from taxation such properties and the revenue from the lease thereof, such bonds and the income therefrom, all mortgages executed as security therefor and all lease agreements made hereunder; prohibiting any such municipality from making contributions to the cost of any such properties and from furnishing land therefor; providing that such bonds and any agreements made in connection therewith shall not constitute an indebtedness of a municipality or a pecuniary liability of any kind; providing that such bonds shall be legal investments for savings banks and insurance companies organized under the laws of this state; providing the purposes for which the proceeds from the sale of such bonds may be used; providing that no notice to or consent or approval by any governmental body or public officer shall be a prerequisite to the issuance of such bonds or the securing thereof.

Be It Enacted by the Legislature of Alabama:

Section 1. DEFINITIONS. Wherever used in this act, unless a different meaning clearly appears in the context, the following terms, whether used in the singular or plural, shall be given the following respective interpretations: "Municipality" means any Class 4 or 5, and 7 and 8 incorporated city in this state having a population of not less than 25,000 and not more than 99,999 inhabitants or a population of 11,999 or less inhabitants according to the last or any subsequent Federal decennial census; "Project" means any land and any building or other improvement thereon, and all real and personal properties deemed necessary in connection therewith, whether or not now in existence, which shall be suitable for use by any commercial enterprise in furnishing hotel services, including food or lodging or both, and the rental of ground floor space or other accommodations to others engaged in any business, trade, profession, occupation or activity; "Governing body" means the board or body in which the legislative powers of the municipality are vested; "Mortgage" means a mortgage or a mortgage and deed of trust.

Section 2. LEGISLATIVE INTENT. It is the intent of the

legislature by the passage of this act to authorize municipalities to acquire, own, and lease projects for the purpose of promoting trade by inducing commercial enterprises to locate in this state. It is intended that each project be self-liquidating. It is not intended hereby to authorize any municipality itself to operate any commercial enterprise. This act shall be liberally construed in conformity with the said intent.

Section 3. ADDITIONAL POWERS CONFERRED ON MUNICIPALITIES. In addition to any other powers which it may now have, each municipality shall have the following powers: (1) To acquire, whether by construction, purchase, gift or lease, one or more projects, which shall be located within this state and may be located within or without the municipality, or partially within or partially without the municipality, but which shall not be located more than fifteen miles outside of the corporate limits of the municipality; (2) To lease to others any or all of its projects for such rentals and upon such terms and conditions as the governing body may deem advisable and as shall not conflict with the provisions of this act; and (3) To issue revenue bonds for the purpose of defraying the cost of acquiring, by construction and purchase, or either, any project, and to secure the payment of such bonds, all as hereinafter provided. No municipality shall have the power to operate any project as a business or in any manner except as lessor thereof.

Section 4. BONDS ISSUED TO FINANCE PROJECTS. All bonds issued by a municipality under authority of this act shall be limited obligations of the municipality the principal of and interest on which shall be payable solely out of the revenues derived from the leasing of the project to finance which the bonds are issued. Bonds and interest coupons issued under authority of this act shall never constitute an indebtedness of the municipality within the meaning of any state constitutional provision or statutory limitation, and shall never constitute nor give rise to a pecuniary liability of the municipality or a charge against its general credit or taxing powers, and such fact shall be plainly stated in the face of each such bond. Such bonds may be executed and delivered at any time and from time to time, may be in such form and denominations, may be of such tenor, may be in registered or bearer form either as to principal or interest or both, may be payable in such installments and at such time or times not exceeding thirty years from their date, may be payable at such place or places, may bear interest at such rate or rates payable at such place or places and evidenced in such manner, and may contain such provisions not inconsistent herewith, all as shall be provided in the proceedings of the governing body whereunder the

bonds shall be authorized to be issued. The bonds issued hereunder shall be subject to the general provisions of law, presently existing or that may hereafter be enacted, respecting the execution and delivery of the bonds of a municipality and respecting the retaining of options of redemption in proceedings authorizing the issuance of municipal securities. Any bonds issued under the authority of this act may be sold at public or private sale in such manner and from time to time as may be determined by the governing body to be most advantageous, and the municipality may pay all expenses, premiums and commissions which the governing body may deem necessary or advantageous in connection with the authorization, sale and issuance thereof. All bonds issued under the authority of this act and all interest coupons applicable thereto shall be construed to be negotiable instruments, despite the fact that they are payable solely from a specified source.

Section 5. SECURITY FOR BONDS. The principal of and interest on any bonds issued under the authority of this act shall be secured by a pledge of the revenues out of which such bonds shall be made payable, may be secured by a mortgage covering all or any part of the project from which the revenues so pledged may be derived, and may be secured by a pledge of the lease of such project. The proceedings under which such bonds are authorized to be issued or any such mortgage may contain any agreements and provisions customarily contained in instruments securing bonds, including, without limiting the generality of the foregoing, provisions respecting the fixing and collection of rents for any project covered by such proceedings or mortgage, the terms to be incorporated in the lease of such project, the maintenance and insurance of such project, the creation and maintenance of special funds from the revenues from such project, and the rights and remedies available in event of default to the bondholders or to the trustee under a mortgage, all as the governing body shall deem advisable and as shall not be in conflict with the provisions of this act; provided, however, that in making any such agreements or provisions a municipality shall not have the power to obligate itself except with respect to the project and the application of the revenues therefrom, and shall not have the power to incur a pecuniary liability or a charge upon its general credit or against its taxing powers. The proceedings authorizing any bonds hereunder and any mortgage securing such bonds may provide that, in the event of default in payment of the principal of or the interest on such bonds or in the performance of any agreement contained in such proceedings or mortgage, such payment and performance may be enforced by mandamus or by the appointment of a receiver in equity with power to charge and collect rents and to apply the

revenues from the project in accordance with such proceedings or the provisions of such mortgage. Any such mortgage may provide also that, in the event of default in such payment or the violation of any agreement contained in the mortgage, the mortgage may be foreclosed either by sale at public outcry or by proceedings in equity, and may provide that any trustee under such mortgage or the holder of any of the bonds secured thereby may become the purchaser at any foreclosure sale if the highest bidder therefor. No breach of any such agreement shall impose any pecuniary liability upon a municipality or any charge upon its general credit or against its taxing powers.

Section 6. REQUIREMENTS RESPECTING LEASE.

Prior to the leasing of any project, the governing body must determine and find the following: The amount necessary in each year to pay the principal of and the interest on the bonds proposed to be issued to finance such project; the amount necessary to be paid each year into any reserve funds which the governing body may deem it advisable to establish in connection with the retirement of the proposed bonds and the maintenance of the project; and, unless the terms under which the project is to be leased provide that the lessee shall maintain the project and carry all proper insurance with respect thereto, the estimated cost of maintaining the project in good repair and keeping it properly insured. The determinations and finds of the governing body required to be made in the preceding sentence shall be set forth in the proceedings under which the proposed bonds are to be issued; and prior to the issuance of such bonds, the municipality shall lease the project to a lessee under an agreement conditioned upon completion of the project and providing for payment to the municipality of such rentals as, upon the basis of such determinations and findings, will be sufficient (a) to pay the principal of and interest on the bonds issued to finance the project, (b) to build up and maintain any reserves deemed by the governing body to be advisable in connection therewith, and (c) unless the agreement of lease obligates the lessee to pay for the maintenance and insurance of the project, to pay the costs of maintaining the project in good repair and keeping it properly insured.

Section 7. REFUNDING BONDS. Any bonds issued hereunder and at any time outstanding may at any time and from time to time be refunded by a municipality by the issuance of its refunding bonds in such amount as the governing body may deem necessary but not exceeding an amount sufficient to refund the principal of the bonds so to be refunded, together with any unpaid interest thereon and any premiums and commissions necessary to

be paid in connection therewith. Any such refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof for the payment of the bonds to be refunded thereby; provided, that the holders of any bonds so to be refunded shall not be compelled without their consent to surrender their bonds for payment or exchange prior to the date on which they are payable or, if they are called for redemption, prior to the date on which they are by their terms subject to redemption. Any refunding bonds issued under the authority of this act shall be payable solely from the revenues out of which the bonds to be refunded thereby were payable, and shall be subject to the provisions contained in section 4 of this act and may be secured in accordance with the provisions of section 5 of this act.

Section 8. USE OF PROCEEDS FROM SALE OF BONDS.

The proceeds from the sale of any bonds issued under authority of this act shall be applied only for the purpose for which the bonds were issued; provided, however, that any accrued interest and premium received in any such sale shall be applied to the payment of the principal of or the interest on the bonds sold; and provided, further, that if for any reason any portion of such proceeds shall not be needed for the purpose for which the bonds were issued, then such unneeded portion of said proceeds shall be applied to the payment of the principal of or the interest on said bonds. The cost of acquiring any project shall be deemed to include the following: The actual cost of the construction of any part of a project which may be constructed, including architect's and engineer's fees; the purchase price of any part of a project that may be acquired by purchase; all expenses in connection with the authorization, sale and issuance of the bonds to finance such acquisition; and the interest on such bonds for a reasonable time prior to construction, during construction, and for not exceeding six months after completion of construction.

Section 9. NO CONTRIBUTION BY MUNICIPALITY.

No municipality shall have the power to pay out of its general funds or otherwise contribute any part of the costs of acquiring a project, and shall not have the power to use land already owned by the municipality, or in which the municipality has an equity, for construction thereon of a project or any part thereof. The entire cost of acquiring any project must be paid out of the proceeds from the sale of bonds issued under the authority of this act; provided, however, that this provision shall not be construed to prevent a municipality from accepting donations of property to be used as a part of any project or money to be used for defraying any part of the cost of any project.

Section 10. BONDS MADE LEGAL INVESTMENTS. Bonds issued under the provisions of this act shall be legal investments for savings banks and insurance companies organized under the laws of the state.

Section 11. EXEMPTION FROM TAXATION. The bonds authorized by this act and the income therefrom, all mortgages executed as security therefor, all lease agreements made pursuant to the provisions hereof, and all projects and the revenue derived from any lease thereof shall be exempt from all taxation in the state of Alabama.

Section 12. CONSTRUCTION OF ACT. Neither this act nor anything herein contained shall be construed as a restriction or limitation upon any powers which a municipality might otherwise have under any laws of this state, but shall be construed as cumulative; and this act shall not be construed as requiring an election by the voters of a municipality prior to the issuance of bonds hereunder by such municipality.

Section 13. NO NOTICE OR PUBLICATION REQUIRED. No notice to or consent or approval by any governmental body or public officer shall be required as a prerequisite to the sale or issuance of any bonds or the making of a mortgage under the authority of this act.

Section 14. SEVERABILITY. If any section, clause, provision or portion of this act shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause or provision of this act which is not in and of itself unconstitutional.

Section 15. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-723

H. 941—Gilmer

AN ACT

To repeal Act No. 735, H. 1860, approved October 6, 1975, Regular Session 1975 (Acts 1975, p. 1499), entitled "An Act Relating to counties having a population of not less than 16,245 nor more than 16,300 inhabitants according to the most recent federal decennial census; to further regulate the taking, capturing or killing of wildlife in said counties; to regulate the gun and bow and arrow hunting of certain furbearing animals to the gun hunting deer season; to ban the practice of hanging

bait over or near traps used for the taking of fur-bearing animals, and to require the marking of traps under certain conditions; and to provide penalties for the violation of this act."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 735, H. 1860, approved October 6, 1975, Regular Session 1975 (Acts 1975, p. 1499), entitled "An Act Relating to counties having a population of not less than 16,245 nor more than 16,300 inhabitants according to the most recent federal decennial census; to further regulate the taking, capturing or killing of wildlife in said counties; to regulate the gun and bow and arrow hunting of certain fur-bearing animals to the gun hunting deer seasons; to ban the practice of hanging bait over or near traps used for the taking of fur-bearing animals, and to require the marking of traps under certain conditions; and to provide penalties for violation of this act," is hereby expressly repealed.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-724

H. 953—Owens

AN ACT

To provide for a cost-of-living increase for all state employees and officials, including certain judges under certain circumstances, and certain other officials; to provide for revision of pay rates by the State Personnel Director and by the Administrative Director of Courts; to provide for the conditions prior to the granting of the conditional cost-of-living increase hereby authorized; to otherwise provide for and identify the funds from which said cost-of-living increase shall be paid and to appropriate such additional funds as may be necessary to pay such increase, subject to the condition of the state treasury and/or the availability of monies otherwise appropriated for any purpose during the fiscal year ending September 30, 1980.

Be It Enacted by the Legislature of Alabama:

Section 1. Beginning on October 1, 1979, and payable in a lump sum quarterly, all state employees who are listed in the classified and unclassified service of the state as defined in the Code of Alabama 1975, Section 36-26-10, and all other state employees and all hourly employees of the state, except those set out in Section 2 herein, and all legislative personnel, officers, and employees, including but not limited to Legislative Reference Service personnel, whether subject to the state merit system or not, and all circuit clerks and registers, and all other elected officials of the

judicial branch of government and all employees of the County Health Departments who are employed subject to the State Merit System and whose compensation is paid out of a budget provided and agreed upon by the state, county, or other contributing agency under the direction of the State Board of Health and all state judges, except as provided in Section 2, shall receive a conditional cost-of-living increase in their salaries or compensation up to 7% conditional as provided herein. The amount of the conditional appropriation shall be determined during any quarter of the fiscal year conditional upon the condition of the state treasury upon the State Budget Officer's determination that funds otherwise appropriated and/or any additional monies in the state treasury are available to pay such conditional increase. The amount of such cost-of-living increase up to 7% shall be determined by the State Budget Officer on the basis of the percent of increase which can be paid and supported by the monies otherwise appropriated to and among the same departments, boards, bureaus, commissions, agencies, offices, or institutions for fiscal year 1979-80 and/or the condition of the state treasury as provided in this Act; and it is the intention of the Legislature that the Governor be, and he is hereby authorized to, transfer such amounts to, from, and between such departments, boards, bureaus, commissions, agencies, offices, and institutions under his direct control for the purpose of paying the cost-of-living increase for state employees and officials; any cost-of-living increase granted under the provisions of this act shall in no way apply to any local supplement provided to any judges or any other employee of this state.

Section 2. The provisions of this Act shall not apply to any merit system employee or hourly employee whose service or rates of pay are covered by any labor agreement or contract, nor shall this Act apply to state judges whose salaries are payable from the State Treasury if such judges' salaries are increased under and by virtue of: (1) the recommendations contained in the Report of the Judicial Compensation Commission to the 1979 Regular Session of the Legislature becoming law; or (2) the enactment into law of legislation altering and amending said Report, or (3) any other legislation enacted into law during the 1979 Regular Session of the Legislature; nor shall this Act apply to any person who, for any quarter in which said person, was not employed for the entire quarter.

Section 3. The State Budget Officer shall determine the amounts necessary to pay appropriations for each quarter of the fiscal year ending September 30, 1980, from the funds from which salaries are paid and from the general fund. In the event revenues

accrue to the funds from which salaries are paid and to the state general fund for each of the four quarters of the fiscal year in amounts beyond those funds necessary to pay the above mentioned appropriations, the State Budget Officer shall certify those additional funds, if any, as being available for the conditional salary increases provided by this Act.

Section 4. The State Budget Officer shall allot funds available under the provisions of this Act under similar procedures as provided in Article 4, Chapter 4, Title 41, of the Code of Alabama 1975, for the purposes of paying the conditional cost-of-living salary increases provided by this Act.

Section 5. Upon allotment by the State Budget Officer, the State Treasurer shall issue a warrant in the amount determined to be available for each quarter for the conditional cost-of-living salary increases provided by this Act.

Section 6. In the event the entitlement for one quarter is not available in any quarter, such deficit shall be made up in subsequent quarters as funds are available.

Section 7. The State Personnel Director shall revise the schedule of rates for all employees and officials hereby affected regardless of whether subject to the State Merit System, to reflect the increase herein provided. The State Personnel Board shall certify to the State Comptroller the new rates of pay regardless of whether subject to the merit system, that each classification, employee or official is entitled to receive, and the Comptroller shall issue warrants in accordance therewith. With respect to court officials and employees within the Unified Judicial System who serve the trial courts of the state and the Administrative Office of Courts, the Administrative Director of Courts shall revise the salaries and schedule of rates set forth in the pay plan for such court officials and employees to reflect the increase herein provided, and shall certify the same to the State Comptroller who shall issue warrants in accordance therewith. Anything herein to the contrary notwithstanding, such revisions shall be made only once at the end of the Fiscal Year, that is on September 30, 1980, and shall reflect the actual total annual increase in rates of pay, resulting from the conditional quarterly payments.

Section 8. There is hereby appropriated, for the Fiscal Year beginning October 1, 1979, and ending September 30, 1980, from the funds from which the salaries of the several state employees and official are paid, or if there is not sufficient money in such funds, then from the General Fund, such additional sums as may be necessary to pay the cost-of-living increase herein provided for such

state employees and officials as are subject to the provisions of this Act. This appropriation is conditional on the availability of funds.

Section 9. No state employee or other person covered under the provisions of this Act shall receive a cost-of-living increase under the provisions of the Act out of any funds in the state treasury or otherwise unless the cost-of-living increase is granted to all state employees or persons covered under the provisions of this Act equally and sufficient funds are certified as being available on an equal basis by the Governor for all state employees or other persons covered under the provisions of this Act.

Section 10. In the event any section, sentence, clause, or portion of this Act should be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any of the remaining sections, sentences, clauses, or portions of this Act, which shall continue effective.

Section 11. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 12. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-725

H. 978—Penry, McMillan

AN ACT

Relating to Baldwin County; to appropriate county money to the civil air patrol, the Daphne Search and Rescue Squad and the Hub City Search and Rescue Squad.
Be It Enacted by the Legislature of Alabama:

Section 1. The Baldwin County Commission is hereby authorized to appropriate the combined sum of not more than one thousand dollars (\$1,000) each year to the Baldwin County civil air patrol, the Daphne Search and Rescue Squad and/or the Hub City Search and Rescue Squad for the purpose of assisting said organizations in purchasing equipment and supplies. Such appropriation shall be made from any funds in the county treasury which are not otherwise appropriated and shall be made upon the warrant of the chairman of the county governing body.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-726

H. 979—McMillan, Penry

AN ACT

Relating to Baldwin County; to amend Act No. 741, H. 1148, 1978 Regular Session (Acts 1978, p. 1080) entitled "An Act Relating to Baldwin County; providing for the collection of a filing fee on instruments, documents and papers filed for records in the Probate Judge's office," so as to provide a new expiration date.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 5 of Act No. 741, H. 1148, 1978 Regular Session (Acts 1978, p. 1080) is hereby amended to read as follows:

"Section 5. This act shall become effective upon its passage and approval by the Governor, or upon its otherwise becoming a law and will expire May 2, 1981."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-727

H. 982—Penry, McMillan

AN ACT

Relating to Baldwin County; to authorize the county commission to establish a county personnel system, as recommended by the U. S. Civil Service Commission.

Be It Enacted by the Legislature of Alabama:

Section 1. The Baldwin County Commission is hereby authorized and directed to establish a county personnel system. Such personnel system shall be established, based upon recommendations of the U. S. Civil Service Commission and any cost thereof shall be paid from any funds available in the county treasury.

Section 2. The system hereby authorized to be created and the rules and regulations established for the implementation thereof, including, without limitation, establishment of job classifications and compensation, shall cover and apply to all personnel employed by the Baldwin County Commission and any Agency, Department, or Board thereof, and also personnel employed in the Offices of the Tax Assessor, Tax Collector, Probate Judge, and Sheriff of Baldwin County.

Section 3. The provisions of this act shall not be construed to interfere with any expense allowance or clothing allowance heretofore or hereafter enacted by act of the legislature, whether special, local or general. The provisions of Act No. 1268, S. 933 of the 1973 Regular Session are hereby excluded from the provisions of this act.

Section 4. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 5. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 6. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-728

H. 1035—Minus

AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the municipality of Pennington, in Choctaw County.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the municipality of Pennington in Choctaw County are hereby altered, rearranged and extended so as to include within the corporate limits of said municipality, in addition to the lands now included, all of the following territory, to-wit:

Township 14 North,

Range 1 West

Section 12: North one-half of the Northwest one-quarter ($N\frac{1}{2}$ of $NW\frac{1}{4}$)

Section 13: West one-half of the Northwest one-quarter ($W\frac{1}{2}$ of $NW\frac{1}{4}$)

Section 14: South one-half of the Northeast one-quarter ($S\frac{1}{2}$ of $NE\frac{1}{4}$)

Southeast one-quarter of the Northwest one-quarter ($SE\frac{1}{4}$ of $NW\frac{1}{4}$)

Northeast one-quarter of the Southwest one-quarter (NE $\frac{1}{4}$ of SW $\frac{1}{4}$)

All in Choctaw County, Alabama.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-729

H. 1041—Minus

AN ACT

Relating to Sumter County; providing for the use of electronic voting systems in elections; providing the requirements for these systems; providing those procedures to be used in connection with elections in which these systems are used, including additional procedures for dividing precincts and designating voting places therein; providing election officers for such polling places and prescribing duties and compensation of such election officials.

Be It Enacted by the Legislature of Alabama:

Section 1. As used in this Act:

(1) "Automatic Tabulating Equipment" shall mean apparatus which automatically examines and counts votes recorded on paper ballots or ballot cards and tabulates the results.

(2) "Paper Ballot" shall mean a printed paper ballot which conforms in layout and format to the electronic voting system in use.

(3) "Ballot Card" shall mean a tabulating card on which votes may be recorded.

(4) "Ballot Label" shall mean the cards, papers, booklet, pages or other material which contain the names of offices and candidates and statements of measures to be voted on and which are used in conjunction with ballot cards.

(5) "Ballot" shall mean the ballot cards or paper ballots.

(6) "Counting Center" shall mean one or more locations selected and designated by the county commission or the municipal

governing body, as the case may be, for the automatic counting of ballots in the election.

(7) "Electronic Voting System" shall mean a system in which a voting device is used in conjunction with paper ballots or ballot cards, in such way that votes may be recorded and subsequently counted and tabulated by automatic tabulating equipment.

(8) "Voting Device" shall mean an apparatus in which paper ballots or ballot cards are used in connection with either a punch device for the piercing of ballots by the voter, or a device for marking ballots with ink or other substance, or any other method of recording votes on ballots in such way that the ballot may be tabulated by means of automatic tabulating equipment.

Section 2. (1) In Sumter County, the county commission, with the approval of the probate judge, or the governing body of any city or town in the county, may adopt, experiment with, acquire by purchase, lease, or otherwise, or abandon any electronic voting system authorized by this Act for use in all elections in the county or city or only for use thereof in certain elections; may use such system in combination with paper ballots; and may use such system in all or a part of the voting districts within its boundaries. The local authorities, on the adoption and acquisition of an electronic voting system, shall provide for payment therefor in such manner as they deem for the best interest of the locality. Provided, however, the county or city shall not be required to furnish electronic voting systems in voting precincts or districts that contain less than 600 voters.

(2) Notwithstanding any other provisions of this act or of any other law, the ballots to be counted by means of electronic or electromechanical devices shall be of such size, layout and texture, and shall be printed in any type of ink or combination of inks that will be suitable for use in the county devices in which they are intended to be placed.

Section 3. Every electronic voting system shall:

(1) Provide for voting in secrecy in all cases in which such secrecy is required by law, except in the case of voters who receive assistance as provided by law.

(2) Permit each voter to vote at any election for or against all persons and offices for whom and for which he is lawfully entitled to vote; to vote for as many persons for an office as he is entitled to vote; and to vote for or against any question upon which he is entitled to vote. The automatic tabulating equipment shall also reject choices recorded on a person's ballot if the number of choices exceed the

number upon which he is entitled to vote.

(3) Permit each voter, at presidential elections, by one mark or punch to vote for the candidates of a political party for president, vice president, and their presidential electors.

(4) Permit each voter, at other than primary elections, to vote for the nominees of one or more political parties and for independent candidates.

(5) Permit each voter to vote for candidates in the primary of the political party of his choice.

(6) Prevent a voter from voting for the same person more than once for the same office.

(7) Be suitably designed for the purpose used, be of durable construction, and may be used safely, efficiently and accurately in the conduct of elections and counting ballots.

(8) Accurately and correctly record and count every vote cast when properly operated.

Section 4. (1) Ballot labels used in conjunction with ballot cards shall, as far as practicable, be in the same order or arrangement as provided for ballots for elections conducted under the general law, except that the names of all candidates for each office shall be arranged in alphabetical order according to their surnames or last names, and except that such information may be printed in vertical columns or on a number of separate pages which are placed on the voting device.

Following the listing of particular candidates, the pages placed on the voting device shall be of sufficient number to include the names of candidates for any non-partisan offices and any measures on which a voter may be qualified to vote.

In a primary election the pages placed on the voting device may be arranged with the entire ballot label consisting of several groups of pages, so that a separate group can be used to list the names of candidates seeking nomination of each qualified political party, with additional groups of pages used to list candidates for non-partisan offices or measures. Groups of pages shall be indentified by color or other suitable means, and voters shall be instructed to vote only for candidates of the party of their choice and thereafter to vote for non-partisan candidates or measures.

(2) Ballot labels shall be printed in plain clear type in black ink, of such size and arrangement as to fit the construction of the voting device. Said labels shall be printed on clear white material

or on material of different colors to identify different ballots or parts of a ballot. In primary elections multi-colored ballot labels shall be used to identify each political party.

(3) On all ballot labels the titles of offices and the names of candidates shall in all election primaries be arranged in vertical columns or in a series of separate pages. The office titles and an abbreviation of the name of the political party shall be printed above or at the side of the names of candidates so as to indicate clearly the candidates for each office, the party and the number to be elected. All candidates for one office shall, insofar as feasible, be grouped on one page. In case there are more candidates for an office than can be printed in one column or on one ballot page, the ballot label shall be clearly marked to show that the list of candidates is continued on the following column or page, and so far as possible, the same number of names shall be printed on each column or page. In partisan elections the party designation of each candidate shall be printed to the right or below the candidate's name. Arrows may be used to indicate the place to vote for each candidate and on each measure.

(4) In partisan elections the ballot labels shall include a voting square or position whereby the voter may by one punch record a straight party ticket vote for all the candidates of one party or may vote a split ticket for the candidates of his choice. In such partisan elections the party designation and party emblem of each party shall be printed on the ballot labels immediately above the square or position which permits the straight ticket voting. An abbreviation of the name of the party shall appear after the name of each individual candidate seeking nomination by such party or seeking election after nomination as such party's candidate.

(5) Ballot cards shall be of the size, design and stock suitable for processing by automatic data processing machines. Each ballot card shall have an attached, serially numbered, perforated stub, which shall be removed by an election officer before it is deposited in the ballot box. The name of the county or other local governmental unit, the district number, the designation and date of the election, and a facsimile of the signature of the judge or appropriate municipal officer who has caused the ballot to be printed shall be printed on the ballot card stub.

(6) Sample ballots, which shall be facsimile copies of the official ballot or ballot labels, shall be provided and posted in each polling place on election day as required by law. Sample ballots may be printed on a single page or on a number of pages stapled together.

(7) In elections in which voters are authorized to vote for persons whose names do not appear on the ballot, a separate write-in ballot, which may be in the form of a paper ballot, card or envelope in which the voter places his ballot card after voting, shall be provided to permit voters to write in the title of the office and the name of the person or persons for whom he wishes to vote.

Section 5. (1) Prior to any election at which electronic voting devices are used, the probate judge or appropriate municipal officer shall have prepared the voting devices, voting booths, ballots, ballot boxes, ballot labels, ballot cards, "write-in" ballots and such other records and supplies as required.

(2) Unless the voting device enables the voter to mark his choices in secret, the sheriff or appropriate municipal officer shall provide voting booths for each voting district or voting center, which shall be of a size and design so as to enable the voter to mark his ballot in secret. The probate judge or appropriate municipal officer shall determine the number of voting devices and voting booths to be provided.

Section 6. (1) The election official shall arrive at the polling place 30 minutes before the opening of the polls, open the voting devices, and examine them to see that they are in proper working order. They shall open and check the ballots, supplies, records and forms and they shall also post the sample ballots and instructions to voters.

(2) Each voter shall be instructed how to operate the voting device before he enters the voting booth. If he needs additional instruction after entering the voting booth, two election officers of the voter's choice, may if necessary enter the booth and give him such additional instructions.

(3) Any voter who spoils his paper ballot or ballot card may return it and secure another. The word "spoiled" shall be written across the face of the ballot and it shall be placed in the envelope for spoiled ballots.

(4) After the voter has marked his paper ballot or ballot card, he shall place the ballot inside the envelope provided and return it to an election officer, who shall remove the stub and deposit the envelope with the ballot inside the ballot box. No ballot card from which the stub has been detached shall be accepted by the election officer in charge of the ballot box, but shall be marked "spoiled" and placed with the spoiled ballot cards.

(5) As soon as the polls have been closed and the last qualified voter has voted, all unused ballots shall be placed in a container and

sealed for return to the sheriff or appropriate municipal officer. If the ballots are to be tabulated in the polling place, the counting equipment used shall have an element which generates a printed record at the beginning of its operation which verifies that the tabulating elements for each candidate's position, each question and the public counter are all set to zero, and with an element which generates a printed record at the finish of its operation of the total number of voters whose ballots have been tabulated, the total number of votes cast for each candidate, and the total number of votes cast for, or against any question appearing on the ballot. If the ballots are to be counted centrally, the ballot box shall be opened, and any ballots containing write-in votes shall be separated, counted, and tabulated on a standard form provided for this purpose. If the voter has cast more votes for an office than he is entitled as a result of the write-in vote, such write-in vote shall be counted as being the obvious intent of the voter. Any such ballots shall be fastened to the reporting form for write-in vote tabulation and placed in the ballot container with all other voted ballots for delivery to the counting center. The voting devices shall be placed in their containers and locked or sealed for returning to the sheriff or appropriate municipal officer, and the sealed container shall be returned to the sheriff by the chief inspector.

(6) The election inspectors shall prepare a report of the number of voters who have voted, as indicated by the poll list, and shall place the original copy of this report in the ballot container so that no additional ballots may be deposited or removed, and shall deliver such container to the counting center. The duplicate copy of this report shall be returned to the sheriff or appropriate municipal officer with other records. The returning officer and the inspector, who shall be members of different political parties when this is feasible, shall forthwith deliver the ballot container to the counting center or other designated place. The judge of probate or appropriate municipal officer may provide that the ballots shall be picked up at the polling places by two authorized returning officers, who shall be of different political parties if feasible.

Section 7. (1) Prior to the start of the counting of the ballots, the judge of probate or the appropriate municipal officer shall have the automatic tabulating equipment tested in the presence of authorized watchers for interested persons or designate representatives of political parties, to insure proper performance and to ascertain that it will accurately count the votes cast for all offices and all measures.

(2) All proceedings at the counting center shall be under the direction of the probate judge or appropriate municipal officer, or

persons designated by him, and shall be conducted under the observation of authorized watchers for interested persons and the public, but no persons except those authorized for the purposes shall touch any ballot or ballot card or return. All persons who are engaged in processing and counting of the ballots shall be deputized and take an oath that they will faithfully perform their assigned duties. Each political party having election watchers at the polls shall be entitled to have watchers at the counting center in sufficient number, to be determined by the governing body of the county or the city so as to permit accurate observance of the receipt, handling, duplication, and processing of all ballots.

If any ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, a true duplicate copy shall be made and substituted for the damaged ballot. All duplicate ballots shall be clearly labeled "duplicate," and shall bear a serial number which shall be recorded on the damaged or defective ballot. The probate judge or appropriate municipal officer may, prior to the conduct of the official count, conduct an unofficial count in order to provide early unofficial returns to the public.

(3) The return by the automatic tabulating equipment, to which have been added write-in, challenged and absentee votes, shall, when certified by the board of election supervisors as provided for in Section 17-14-1, Code of Alabama 1975, constitute the official return of each election. The persons engaged in processing and counting ballots may from time to time release unofficial returns. Upon completion of the count the returns shall be open to the public, but such returns shall be deemed unofficial until canvassed and the results declared pursuant to Sections 17-14-1 through 17-14-25, Code of Alabama 1975.

(4) If for any reason it becomes impracticable to count all or a part of the ballots with tabulating equipment, the judge of probate or appropriate municipal officer may direct that the ballots be counted manually, following as far as practicable the provisions governing the counting of paper ballots.

Section 8. Absentee votes and challenged votes shall be cast on paper ballots and on ballot cards and handled in all ways as prescribed by the law relative to challenged votes, the absentee ballot law or any other applicable law.

Section 9. Upon completion of the count, all ballot cards, absentee ballots, challenged ballots, write-in ballots and paper ballots, shall be securely packaged, suitably labeled and sealed, and delivered to the returning officer of the election. The election

officials shall likewise package and seal a true copy of the ballot label used in each voting district or at each voting center. Thereafter these packages are to be retained and disposed of in accordance with the provisions of Section 17-13-5, Code of Alabama 1975. The election officials shall likewise package and retain all tabulating cards and other materials used in programming the automatic tabulating equipment. The person programming such equipment may have access to these tabulating cards and other materials; he shall not, however, alter or make changes to these materials, but may make copies of the originals and make changes to the copies. The sheriff shall retain and dispose of these materials in the same manner and at the same time he is directed by said Section 17-13-5, *supra*, to retain and dispose of paper ballots.

Section 10. Any election held pursuant to this act may be contested in the same manner prescribed by law for contesting other elections, and a recount of the votes may be ordered under the same circumstances and conditions as recounts relative to other elections are ordered. Should a recount of votes be ordered as provided by law, the ballots shall be recounted in the manner directed by the judicial authority.

Section 11. (a) If the governing body of the county, with the approval of the probate judge, or the governing body of a municipality authorizes and provides for the use of the electronic voting system pursuant to this act, then such governing body shall also designate a voting center or voting centers in the county. The order so designating voting centers shall state (1) the location of the voting center and (2) the boundaries of the territory in which electors shall reside to be entitled to vote at said voting center. A copy of this order shall be posted at the courthouse door of the county or at the post office door of any municipality which provides for the use of such electronic voting systems. The limitations prescribed by law as to the number of electors who may reside in a voting district shall not apply to a territory designated hereunder. All of the territory designated for a voting center shall be located in the same precinct and the voting center designated therefor shall be located in the territory. The county or municipal governing body may by law abolish a voting territory and discontinue the voting center therein or may extend or restrict the boundary of such voting territory and retain the voting center therein or may subdivide such voting territory and designate an additional voting center therein.

(b) Except as herein expressly provided, in designating voting centers and the territory for which they were established, the county or municipal governing body shall be subject to all other

applicable laws regarding the change or establishment of the districts of a precinct, including but not limited to the provisions of Section 17-5-1 through 17-5-13, Code of Alabama 1975.

Section 12. (a) The voting list of any territory which is furnished the election officers serving at the voting center designated for such territory shall contain the names of all qualified electors of the territory on a single roll; however, when the roll contains more than twenty-four hundred names the list of qualified electors shall be divided into alphabetical sections of not more than twenty-four hundred names per section. Except as herein provided, the laws applicable to the preparation, distribution, publication and checking of qualified lists shall apply to the poll list of a territory for which a voting center has been established by the county governing body pursuant to authority hereby conferred.

(b) No elector shall vote at any voting center other than the voting center of the territory of which he is a qualified elector, but any elector eligible to vote at a voting center may vote on any voting device maintained at such voting center, upon presentation of the identification card issued to him by an election officer serving at such voting center.

Section 13. The county governing body shall determine the number of voting devices deemed necessary to serve adequately the voters at an election, taking into consideration the nature or character of the election; provided, that during each election there shall be maintained at each voting center at least one voting device for each six hundred registered electors, or fraction thereof, residing in the territory served by the voting center designated for said territory. At least thirty days prior to the time when the election officials for an election are required to be appointed, the county governing body shall in writing inform the officers whose duty it is to appoint said election officials of the number of voting devices which will be maintained at the respective voting centers during the forthcoming election. The officers whose duty it is to appoint election officials shall appoint the number of said officials for the respective voting centers required to conduct elections in which the number of voting devices will be maintained, as shown in the statement of the county governing body.

Section 14. (a) For each voting center where only one voting device is to be used, the election officials shall consist of an inspector, a chief clerk and two assistant clerks. For each voting center where more than one voting device is to be used there shall be appointed one chief inspector who shall supervise the conduct of

the other officials and the operation of the voting center, one inspector and one chief clerk, and for each voting device to be used at such center there shall be appointed two assistant clerks. For each voting center where four or more voting devices are to be used there may be appointed two additional assistant clerks for each group of four voting devices or fraction thereof.

(b) If an election official should be absent from the voting center at the opening of such voting center, a substitute election official may be appointed by the chief inspector in charge of the voting center.

(c) The election officials provided for herein shall be appointed by the same officers that appoint other election officials. They shall perform all duties imposed on election officials by the general law.

(d) The assistant clerk in charge of the voting device shall require that each voter sign a poll list when the punch card or other ballot is given to him. A separate poll list of persons casting challenged votes shall be kept by the officials. The poll list shall be signed or the name of the voter recorded as provided in Section 17-7-15, Code of Alabama 1975.

(e) The inspector shall certify on a statement form furnished with the other election supplies the total number of votes cast on all devices at the voting center and the total number of electors' names recorded on the poll lists at such voting center. Election officials provided for by this act shall be compensated for their services in the same manner and at the same rate provided by law for election officials where voting machines are used.

(f) It shall be the duty of all election officials to see that order is maintained in the polling place. The inspector shall see that the reports required by Section 6 (6) of this act are filled out for each voting device as required by law and delivered to the proper officials, that the records of the election relating to each device are enclosed respectively in each ballot box or other receptacle provided therefor, and that the list of qualified voters, challenged ballots, and one copy of each challenged oath and any other records relating to the election in general are enclosed in an appropriate box or other receptacle.

Section 15. (a) If the governing body of the county or municipality authorizes and provides for the use of the electronic voting system hereby authorized, then such governing body may, in its discretion, also provide for holding a school of instruction for those who will actually conduct the election at the polling places. If the governing body of the county or the municipality decides to do

so, then not less than five days before an election the authority in charge shall cause to be held a school of instruction for those who will actually conduct the election at the polling places. The sheriff shall notify the election officials of the time and place of the holding of such school and shall also publish notice thereof at least 48 hours before the same is to be held.

(b) No election official shall serve in any election district or at any voting center in which a voting device is used, unless he shall have received such instruction and is fully qualified to perform the duties in connection with the voting device, has received a certificate from the authorized instructor to that effect, and is a qualified voter. This shall not however, prevent the appointment of an uninstructed person as an election official to fill a vacancy among the election officials, and in the event that the governing body does not order the holding of such school of instruction, the appointment of election officials without such school shall be valid.

Section 16. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 17. All laws or parts of laws which conflict with this act are hereby repealed.

Section 18. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-730

H. 1042—Minus

AN ACT

Relating to law enforcement in Sumter County; to amend Act No. 2464, H. 2846, 1971 Regular Session, (Acts 1971, p. 3929), so as to fix the fee for issuance of pistol permits; to provide for the disposition of such fees; to provide that the provisions of this Act shall be severable; and to repeal all laws or parts of laws in conflict with this Act.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 2464, H. 2846, Regular Session 1971, (Acts 1971, p. 3929) is hereby amended to read as follows:

“Section 1. In Sumter County, the fee for issuance of a permit to carry a pistol in a vehicle or concealed on or about the person as

provided in Section 13-6-155 of the Code of Alabama 1975, shall be ten dollars, which shall be collected by the Sheriff."

Section 2. Section 2 of Act No. 2464, H. 2846, Regular Session 1971, (Acts 1971, p. 3929), is hereby amended to read as follows:

"Section 2. Seven dollars and fifty cents of said fee collected under Section 1 of this Act shall be deposited by the Sheriff of Sumter County, in any bank located in Sumter County in a fund known as the Sheriff's Fund."

Section 3. Section 3 of Act No. 2464, H. 2846, Regular Session 1971, (Acts 1971, p. 3929), is hereby amended to read as follows:

"Section 3. Two dollars and fifty cents of said fee collected under Section 1 of this Act shall be paid by the Sheriff of Sumter County into the general fund of Sumter County to be used for any purpose authorized by the county governing body of Sumter County."

Section 4. Section 4 of Act No. 2464, H. 2846, Regular Session 1971, (Acts 1971, p. 3929) is hereby amended to read as follows:

"Section 4. The Sheriff's Fund as provided in Section 2 of this Act shall be drawn upon by the Sheriff of Sumter County or his appointed agent and shall be used exclusively for law enforcement purposes and in the discharge of the Sheriff's office as he sees fit."

Section 5. Section 5 of Act No. 2464, H. 2846, Regular Session 1971, (Acts 1971, p. 3929) is hereby amended to read as follows:

"Section 5. The establishment of the Sheriff's Fund as provided in this Act and the use of such funds shall in no way diminish or take the place of any other imbursement or other source of income established for the Sheriff or the operation of the Sheriff's office."

Section 6. The provisions of this Act shall be severable and if any of its sections, provisions, sentences, clauses or phrases are held to be unconstitutional or void, the remainder of this Act shall continue in full force and effect.

Section 7. All laws or parts of laws whether special, general or local in conflict with this Act are hereby expressly repealed.

Section 8. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-731

H. 1044—Greer

AN ACT

Relating to Lauderdale County; to provide further for the distribution of the payments made in lieu of ad valorem taxes by the Tennessee Valley Authority as authorized by Section 40-28-2, Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. In Lauderdale County, the payments made to the county commission as authorized in Section 40-28-2, Code of Alabama 1975, shall be distributed by the said county commission as follows: Ten percent (10%) of said payments shall be distributed to the county to be used in the county road and bridge fund; Thirty percent (30%) of such payments shall be disbursed on the same formula as school funds according to the state department of education's "Current Expense Ratio" are apportioned to the two local school systems - the Lauderdale County Board of Education, and the Florence Board of Education; sixty percent (60%) of said payments shall be distributed to the county general fund and the general funds of the City of Florence, the City of Rogersville, the City of Lexington, the City of Killen, the City of Anderson, the City of St. Florian and the City of Waterloo. The county shall share said sixty percent (60%) with the said cities in the same ratio that the population of each named city bears to the population of the entire county.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-732

H. 1052—Williams, Sasser

AN ACT

To alter or rearrange the boundary lines of the Town of Level Plains, Dale County, Alabama, so as to include within the corporate limits of said Town all territory now within such corporate limits and also certain other territory contiguous thereto, in Dale County, Alabama.

Be It Enacted by the Legislature of Alabama:

Section 1. That the boundary lines of the Town of Level Plains, Dale County, Alabama, be, and the same are hereby altered or rearranged so as to include all of the territory heretofore encompassed by the corporate limits of the Town of Level Plains and addition thereto the following described territory, to-wit:

Parcel One

New Addition To The Corporate Limits Level Plains Dale County, Alabama

A parcel of land located in Dale County, Alabama and being more particularly described as follows: Beginning at the existing corporate limits at the southwest corner of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 20, T4N, R23E; thence in a northerly direction along the West line of the NE $\frac{1}{4}$ of Section 20, T4N, R23E, a distance of 2280 ft. more or less to the east R.O.W. of Dale County Road 1; thence in a northeasterly direction along the east R.O.W. of said county road a distance of 500 ft. more or less to the north line of the NE $\frac{1}{4}$ of Section 20, T4N, R23E; thence in a easterly direction along the north line of the NE $\frac{1}{4}$ of said section a distance of 1025 feet more or less to the S.W. corner of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 17, T4N, R23E; thence in a northerly direction along the west line of said forty a distance of 400 ft. more or less to a point; thence in an easterly direction and parallel to the south line of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 17, T4N, R23E, a distance of 1320 ft. more or less to the east line of said forty; thence in a northerly direction along said east line of said forty a distance of 200 ft. more or less to a point; thence in an easterly direction and parallel to the south line of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 16, T4N, R23E a distance of 1320 ft. more or less to the east line of said forty; thence in a northerly direction along the east line of said forty a distance of 720 feet more or less to the northeast corner of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 16, T4N, R23E; thence in a westerly direction along the north line of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said section a distance of 1320 ft. more or less to the west line of Section 16, T4N, R23E; thence in a northerly direction along the west line of said Section a distance of 3960 ft. more or less to the northwest corner of Section 16, T4N, R23E; thence in a northerly direction along the east line of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 8, T4N, R23E a distance of 1320 Feet more or less to the Northeast corner of said forty; thence in a westerly direction along the north line of the S $\frac{1}{2}$ of the SE $\frac{1}{4}$ and the S $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 8, T4N, R23E a distance of 3630 ft. more or less to the west R.O.W. of Dale County Road 1; thence in a southeasterly direction a distance of 1200 ft. more or less along said R.O.W. to the west line of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 8, T4N, R23E; thence in a southerly direction along the west line of said forty a distance of 200' more or less to a

point; thence in a southeasterly direction and parallel to the west R.O.W. of Dale County Road 1 a distance of 200' more or less to a point; thence in a northerly direction and parallel to the west line of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 8, T4N, R23E, a distance of 200 feet more or less to the west R.O.W. of Dale County Road 1; thence along said R.O.W. to the south line of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 17, T4N, R23E; thence in a westerly direction along said south line a distance of 800 ft. more or less to the west line of said forty; thence in a northerly direction along the west line of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$, Section 17, T4N, R23E a distance of 550 feet more or less to the center of Cowpen Branch; thence in a westerly direction along the centerline of Cowpen Branch a distance of 1400 feet more or less to the west line of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 17, T4N, R23E; thence in a southerly direction along the West line of said forty a distance of 660 ft. more or less to the north R.O.W. of Phyllis Avenue in the Pinecreek Acres Subdivision, Dale County, Alabama; thence in a westerly direction along the north R.O.W. of Phyllis Avenue a distance of 890 feet more or less to the west property line of Lot 7, Block A, Pinecreek Acres Subdivision; thence in a northerly direction along the west property line of lots 7 and 4, Block A of Pinecreek Acres Subdivision a distance of 700 feet more or less to the center line of Cowpen Branch; thence in a westerly direction along the centerline of Cowpen Branch to the west line of Section 17, T4N, R23E; thence in a southerly direction along said west line a distance of 500 feet more or less to the N.E. corner of the NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 18, T4N, R23E; thence in a westerly direction along the north R.O.W. of Carroll Street in the McLean Subdivision, Dale County, Alabama a distance of 240 ft. more or less to a point on the west R.O.W. of Carroll Street of said subdivision; thence in a southerly direction along the west R.O.W. of Carroll Street, a distance of 138 feet more or less to the northwest R.O.W. of Donna Drive; thence in a southerly direction along the northwest R.O.W. of Donna Drive a distance of 775 ft. more or less to the north R.O.W. of Shell Street in the McLean Subdivision; thence in a westerly direction along the north R.O.W. of Shell Street in said subdivision a distance of 50' more or less to a point; thence in a southerly direction along the west property line of lot 21, McLean Subdivision, Dale County, Alabama to the southwest corner of said lot; thence in a easterly direction along the south property line of lots 21, 20, 19 and 8 of said subdivision a distance of 720 ft. more or less to the east line of the SE $\frac{1}{4}$ of Section 18, T4N, R23E; thence in a southerly direction along the east line of SE $\frac{1}{4}$ of Section 18, T4N, R23E, a distance of 1320 feet more or less to the southeast corner of Section 18, T4N, R23E; thence in a southerly direction along the east line of the NE $\frac{1}{4}$ of Section 19, T4N, R23E, a distance of 1980 feet more or less to the existing corporate limits of Level Plains.

Dale County, Alabama.

Section 2. That this act shall become effective upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-733

H. 1053—Williams, Sasser

AN ACT

To alter or rearrange the boundary lines of the Town of Level Plains, Dale County, Alabama, so as to include within the corporate limits of said Town all territory now within such corporate limits and also certain other territory contiguous thereto, in Dale County, Alabama.

Be It Enacted by the Legislature of Alabama:

Section 1. That the boundary lines of the Town of Level Plains, Dale County, Alabama, be, and the same are hereby altered or rearranged so as to include all of the territory heretofore encompassed by the corporate limits of the Town of Level Plains and addition thereto the following described territory, to-wit:

New Addition To The Corporate Limits Level Plains Dale County, Alabama

Parcel 2

A parcel of land located in Dale County, Alabama and being more particularly described as follows: Beginning at the intersection of the existing Corporate limits and the South R.O.W. of Averett Road located in the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 19, T4N, R23E; thence in a westerly direction along the south R.O.W. of said road a distance of 1330 ft. more or less to the West R.O.W. of the Level Plains-Macedonia Road; thence in a northerly direction along the west R.O.W. of said road a distance of 165 ft. more or less to a point; thence in a westerly direction and parallel to the south line of the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 19, T4N, R23E a distance of 200 ft. more or less to a point; thence in a northerly direction and parallel to the Level Plains-Macedonia Road a distance of 1240 ft. more or less to a point 50 ft. from the north line of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 19, T4N, R23E; thence in a easterly direction and parallel to the north line of said forty a distance of 260 ft. more or less to the east R.O.W. of the Level Plains-Macedonia Road; thence in a southerly direction along the east R.O.W. of said road a distance of

345 ft. more or less to the northwest property corner of the James D. Green Jr. property; thence in an easterly direction along the north property line of said property a distance of 294 ft. more or less to the northeast corner of said property; thence in a southerly direction along the east property line of the James D. Green Jr. property a distance of 300 feet more or less to a point where the said property line intersects the north property line of the John William Crawford property; thence in an easterly direction and along the north property line of John William Crawford property a distance of 126 ft. more or less to the northeast corner of said property; thence in a southerly direction along the east property line of the John William Crawford property a distance of 415 ft. more or less to a point where the said property line intersects the north property line of the Ralph Curry property; thence in an easterly direction along the north property line of said property a distance of 100 ft. more or less to the northeast corner of said property; thence in a southerly direction along the east property line of the Ralph Curry property to a point 140 ft. more or less from the north R.O.W. of Averett Road; thence in an easterly direction and parallel to the north R.O.W. of Averett Road a distance of 632 ft. more or less to the east line of the NW $\frac{1}{4}$ of Section 19, T4N, R23E; thence in a southerly direction along the east line of the NW $\frac{1}{4}$ of said section to the existing corporate limits of Level Plains, Dale County, Alabama.

Section 2. That this act shall become effective upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-734

H. 1054—Buskey

AN ACT

Relating to Mobile County; to amend section 2 of Act No. 653, H. 589, approved October 2, 1975 (Acts 1975, p. 1410), pertaining to voter registration and reidentification in certain counties classified on a population basis, so as to change certain procedures for such registration and reidentification.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 2 of Act No. 653, H. 589, approved October 2, 1975 (Acts 1975, p. 1410) is hereby amended to read as follows:

“Section 2. At least one member of the board of registrars in

the county to which this act applies shall be available once each 6 months at the city hall of all incorporated municipalities for the purpose of voter registration and voter reidentification. One member of the board of registrars shall be available for registration and reidentification purposes once each 6 months at any unincorporated area in the county upon the request of the member of the House of Representatives who represents that area with the concurrence of the Senate member who represents that area. The board members shall be available at the above mentioned areas during regular business hours on regular business days. The members of the board shall equally share the duties of visiting the legislative house districts. All reidentification forms and voter registration applications accepted by any registrar according to the provisions of this act shall be presented to and acted on by the full board or a quorum of the board at their first meeting after the acceptance of any such forms or applications."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-735

H. 1056—Daniels

AN ACT

Relating to Geneva County; to provide an additional expense allowance for the chairman and members of the county commission.

Be It Enacted by the Legislature of Alabama:

Section 1. The chairman and the members of the Geneva County Commission shall each be entitled to an expense allowance in the amount of one hundred fifty dollars (\$150.00) per month which shall be paid out of the county general fund and shall be in addition to any and all other salary, compensation and expense allowances now provided for by law.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-736

H. 1058—Letson

AN ACT

Relating to Lawrence County; to provide for the total rehabilitation of certain persons, both male and female, convicted of any type crime and sentenced to a term of confinement in the Lawrence County Jail, and providing for a rehabilitation Board to supervise and administer the rehabilitation processes of this Act; to provide further for the carrying out of the provisions of this Act and to repeal all laws or parts of laws which conflict with this Act.

Be It Enacted by the Legislature of Alabama:

Section 1. The provisions of this Act shall apply to Lawrence County.

Section 2. Definitions.

(1) "Board" shall mean County Rehabilitation Board, and shall be composed of the following members: the probate judge of the county; the sheriff of the county; and the Lawrence County Commission.

(2) "Inmate" shall mean any person, male or female, convicted of a crime and sentenced to the county jail.

Section 3. The Board shall adopt such written regulations and policies permitting the sheriff to extend the limits of the place of confinement of an inmate, as to whom there is reasonable cause to believe he will know his trust, by authorizing him under prescribed conditions to leave the confines of the county jail unaccompanied by a custodial agent for a prescribed period of time to work at paid employment while continuing as an inmate in the jail in which he shall be confined except during the hours of his employment, and thereto and therefrom. Inmates shall participate in paid employment at the discretion of the Board.

Any rules, regulations or policies promulgated by the Board shall be written upon the minutes of the Board, and shall be acknowledged and signed by each member of the Board a minimum of 30 days before any such rules, regulations or policies can be implemented or utilized for any prisoner pursuant to the provisions of this Act.

Section 4. The employer of an inmate involved in work release shall pay the inmate's wages directly to the Board. The Board may adopt regulations concerning the disbursement of any earnings of the inmates involved in the work release program. The Board shall be authorized to withhold from the inmate's earnings 25% of his or her gross earnings to pay such cost incident to the inmate's confinement as the Board shall deem appropriate. Said

Board may adopt policies to allow such monies to be spent exclusively for law enforcement and operation of the jail. After 25% has been deducted from the inmate's gross pay the remainder of the inmate's earnings shall be credited to his account in a local bank, and upon his release from confinement shall be turned over to the inmate. The Board may elect, however, to turn the remaining 75% of the inmate's earnings over to his family to be used by them in their support while the inmate is confined, provided the inmate gives written consent to this procedure prior to the inmate's release into the work program.

Section 5. The willful failure of an inmate to remain within the extended limits of his confinement or to return within the time prescribed by the sheriff to the county jail shall be deemed as an escape from the custody of said sheriff and shall be punishable as provided by law for escaped prisoners.

Section 6. Employees of the Board or persons designated by the Board are authorized to make investigation and recommendations pertaining to the validity of requests for job opportunities for inmates and to otherwise assist the sheriff in the implementation of the program herein authorized.

Section 7. The Board or members of the Board shall endeavor to secure employment for eligible inmates under this Act subject to the following:

(1) Such employment must be at a wage at least as high as the prevailing wage for similar work in the area or community where the work is performed in accordance with the prevailing working conditions in such area.

(2) Such employment shall not result in displacement of employed workers.

(3) Inmates eligible for work release shall not be employed as strike-breakers or in impairing any existing contracts.

(4) Exploitation of eligible inmates in any form is prohibited either as it might affect the community, the inmates, or the Board.

Section 8. The Board may at its discretion, allow any inmate, between the ages of 14 and 22 only, to participate in the release program to further the inmate's education. Under this section the inmate must follow all the rules set forth for other inmates participating in the work release program.

Section 9. The Board may adopt rules and allow the sheriff to grant furloughs or leave time not to exceed 3 days or 72 hours for inmates that the Board deems deserving, subject to the following

restriction:

Each furlough can only be granted with the recommendation of the sheriff and must be approved in writing and signed by a majority of the Board members granting and approving such furlough.

Section 10. No inmate granted privileges under the provisions of this Act shall be deemed to be an agent, employee, or involuntary servant of the Board, State, County, or municipality while involved in the free community or while going to and from employment, or other specified areas or while on furlough.

Section 11. The sheriff or person or persons designated by the Board shall jointly prepare an annual report to be filed not later than sixty (60) days from the close of each fiscal year, a copy of said report shall be filed with each of the following persons or agencies: the Board, the governing bodies to which this act applies and to the circuit judge or judges serving Lawrence County.

Section 12. Anyone violating any of the provisions of this Act shall be guilty of a misdemeanor.

Section 13. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 14. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 15. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-737

H. 1059—Letson

AN ACT

Relating to Lawrence County; to provide for the election of the chairman of the county commission; to provide for the election of a temporary acting chairman; to provide that the probate judge shall cease to serve as ex officio chairman of the county commission; and to provide for the compensation of the chairman.

Be It Enacted by the Legislature of Alabama:

Section 1. Commencing with the general election of 1980, the

chairman of the Lawrence County commission shall be elected by the qualified electors of the county at large. The term of office of the chairman shall be for four years beginning on the first Monday after the second Tuesday following his election, and until his successor is elected and qualified.

Section 2. Immediately after the effective date of this act, the four associate commissioners of the Lawrence County commission shall elect one member of the commission to serve as acting chairman until the election and qualification of a chairman as provided in Section 1. Any associate commissioner elected to serve as acting chairman shall continue to serve as a member of the county commission for the remainder of his unexpired term. Immediately upon the election of an acting chairman, the judge of probate shall cease to be a member and ex officio chairman of the county commission.

Section 3. The chairman of the Lawrence County commission shall be a resident of good moral character and a qualified elector of Lawrence County and shall reside in the county during his term of office. The chairman of the Lawrence County commission shall have and exercise all of the powers, duties, limitations and responsibilities given to the chairman of the county commission by general law or by local law relating to Lawrence County.

Section 4. The chairman of the Lawrence County commission shall receive an annual salary of \$20,000.00 per annum payable out of the county treasury in equal monthly installments.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this act are hereby repealed.

Section 7. The provisions of this act shall be effective upon the enactment into law of H. B. 540 proposed at the 1979 Regular Session of the legislature.

Approved August 8, 1979

Time: 4:00 P.M.

Relating to Lawrence County; providing for the construction, maintenance and repair of public roads, highways, bridges and ferries under the county unit system; authorizing and requiring the county governing body to employ and regulate the compensation of a county engineer; providing for the manner of selecting said engineer; prescribing his qualifications; and requiring bond; defining his authority, powers and duties and those of the county governing body in relation to the roads, bridges and ferries of Lawrence County; and to prohibit the performance of certain work on private property and provide penalties for violations.

Be It Enacted by the Legislature of Alabama:

Section 1. The Lawrence County Commission, or any succeeding county governing body performing the functions of the county governing body in said county, shall employ a county engineer, who shall be a thoroughly qualified and competent civil engineer, possessing all of the qualifications as specified for county engineers under the general laws of the State of Alabama; and he shall devote his entire time and attention to the maintenance and construction of the Lawrence County public roads, highways, bridges and ferries, and shall, during his employment, reside in Lawrence County, Alabama.

Section 2. Said county engineer shall be appointed by the county commission from a nomination made by the state highway director. If said nomination is not acceptable to the county commission the state highway director shall be requested to make additional nominations. Should the state highway director refuse, or fail to make nominations, the county commission may fill the position of county engineer with any person who has the qualifications herein set out.

Section 3. It shall be the duty of the said county engineer, (1) to employ, supervise and direct all such assistants as are necessary properly to maintain and construct the public roads, highways, bridges, and ferries of Lawrence County, and he shall have authority to prescribe their duties, and to discharge said employees for cause, or when not needed; (2) to perform such engineering and surveying service as may be required, and to prepare and maintain the necessary maps and records; (3) to maintain the necessary accounting records to reflect the cost of the county highway system; (4) to build, or construct new roads, or change old roads, but only when ordered to do so by proper order of the county commission; (5) it shall be his further duty, insofar as is feasible to construct and maintain all county roads on the basis of the county as a unit, without regard to any district or beat lines.

Section 4. The said county engineer is hereby designated as the person authorized to make written requisition upon the duly designated purchasing agency, for all articles, materials, supplies,

and equipment necessary for the maintenance and construction of roads, bridges and ferries in Lawrence County.

Section 5. It shall be the duty of the county commission to fix, from time to time, in accordance with prevailing economic conditions, the various scales of wages or salaries to be paid for labor necessary in the maintenance and construction of said roads, bridges, and ferries, and said wage or salary scale shall not be exceeded by said engineer in the employment of labor and assistants.

Section 6. The county commission shall fix the amount of the salary of the said county engineer, payable in equal monthly installments from the road and highway funds of Lawrence County.

Section 7. Before entering upon his duties, the said county engineer shall make and enter into a surety bond in the amount of five thousand dollars (\$5,000.00) payable to Lawrence County, conditioned for the faithful discharge and performance of his duties as such engineer, and for the faithful accounting of all monies or property of said county, which may come into his possession or custody. Said bond shall be executed by a surety company authorized and qualified to do business in Alabama, and be approved by the county commission. The premiums thereon shall be paid by the county.

Section 8. The county engineer shall report on a day to day basis to the chairman of the county commission and shall report regularly to the county commission as a whole.

Section 9. The county commission shall furnish the county engineer with an office at the courthouse, or elsewhere, at the county seat, and all necessary office supplies, and shall furnish him with necessary transportation in connection with his duties under this act.

Section 10. The county engineer shall be the custodian of all road tools, machinery, supplies and equipment of Lawrence County, and he shall be accountable for the same, at all times. The county commission shall furnish the necessary storage facilities in which to keep said tools, machinery, supplies and equipment, and the county engineer shall keep on files in his office, at all times, an up-to-date inventory, containing a list of all said tools, machinery, equipment and supplies belonging to Lawrence County.

Section 11. The authority of said county engineer shall be limited to the expenditure of such funds for the purpose of

construction, maintenance or repairs of public roads, bridges, and ferries of Lawrence County as may be set aside and appropriated by the county commission, as hereinafter provided; it shall be the duty of said county commission at some meeting in September of each calendar year or not later than the first meeting in October following by order or resolution spread upon the minutes, to fix and determine the amount of funds which will be available for the purpose of building, maintaining and constructing public roads, bridges and ferries of Lawrence County for the current fiscal year, beginning on October 1st, which said amount, other than the salary of said county engineer and his necessary expenses, shall not be exceeded by him in building, maintaining and constructing public roads, bridges and ferries in Lawrence County during said period; provided however, that said board is authorized, from time to time within any such period, to increase the amount so allowed to be expended by said county engineer during said period, when such authorization will not conflict with provisions of the general law under the budget act, Title 11, Chapter 8, of the Code of Alabama 1975. Provided further, that if such funds are presently available, and have not heretofore been set aside by the present Lawrence County commission, immediately upon the passage and approval of this act, it shall be the duty of the county commission herein created to set aside a sufficient portion of said funds for the maintenance of said roads, bridges, and ferries until the meeting in September or October, 1979, as herein above provided for.

Section 12. The county engineer shall make written requisition to the chairman of the county commission for all materials, machinery, equipment, and necessary supplies needed for the construction, maintenance, or repair of the public roads, bridges and ferries of Lawrence County. Said requisitions shall be filed and presented by the chairman of the county commission at its next meeting, for the approval of the board. Provided, however, that the chairman shall have full power and authority to make said purchases without first obtaining the approval of the whole board if the delay caused by the herein above procedure, might, in his judgment, cause an unnecessary and harmful interruption in the operation of the county road system.

Section 13. It shall be the further duty of the county engineer to inspect all materials, machinery, equipment, and supplies, purchased by Lawrence County for use on public roads, bridges, and ferries, when the same is delivered, and the same shall not be accepted and paid for without its first having been approved by him.

Section 14. In the event an emergency should arise, in which

it would be impossible for the county commission to employ an engineer, as hereinabove provided for, then, in that event the county commission shall employ a competent road supervisor who need not be an engineer, but, when so employed, he shall have all the duties and authority of said engineer, and be subject to the provisions of this act; but an emergency shall not exist so long as the state highway director can nominate an engineer who will accept employment by said board under the terms of this act, it being the intention of this act to provide that, when county roads are to be maintained or constructed in said county, the supervision thereof shall be either under a county engineer, as hereinabove provided for, or, by a road supervisor, who is not a member of the county commission.

Section 15. The county commission is prohibited from authorizing or performing any work on private property with the exception of work performed on church, school, or cemetery property. Any violation of the provisions of this act shall be a misdemeanor punishable by a fine of not more than \$500 and imprisonment in the county jail for not more than 30 days.

Section 16. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 17. All laws or parts of laws which conflict with this act are hereby repealed.

Section 18. The provisions of this act shall be effective upon the enactment into law of H. B. 540 proposed at the 1979 Regular Session of the legislature.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-739

H. 1061—Letson

AN ACT

Relating to Lawrence County; to further provide for the expense allowance and compensation of the members of the county commission.

Be It Enacted by the Legislature of Alabama:

Section 1. The members of the County Commission of Lawrence County, excluding the chairman, shall receive an additional expense allowance in the amount of \$250 per month in addition to any other compensation and allowance provided by law. The expense allowance provided by this Act shall expire upon the

expiration of any constitutional prohibition preventing the above named officers from receiving an increase in salary or other compensation on the effective date of this Act.

Section 2. The members of the Lawrence County Commission shall receive an additional salary in the amount of \$250 per month in addition to any other compensation and allowance provided by law except for the expense allowance provided in Section 1 of this Act. Such salary shall be effective upon the expiration of any constitutional prohibition preventing the above named officers from receiving an increase in salary or other compensation on the effective date of this Act.

Section 3. The expense allowance and compensation of the members of the county commission shall be paid from the county public road and bridge fund for the performance of their duties in relation to the roads, bridges and ferries of Lawrence County.

Section 4. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 6. The provisions of this Act shall be effective only upon the passage of H.B. 540 proposed at the 1979 Regular Session of the Legislature.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-740

H. 1065—Gilmer

AN ACT

Relating to Fayette County; to provide additional clerical help for the Probate Judge, Tax Assessor and Tax Collector and to provide said act shall take retroactive effect.

Be It Enacted by the Legislature of Alabama:

Section 1. The Probate Judge, Tax Assessor and Tax Collector in Fayette County are each hereby authorized to hire a chief clerk. Said chief clerks' salaries shall be fixed by the Fayette County Commission and paid from the general fund of the County.

Section 2. The Probate Judge, provided sufficient funds are available, shall be authorized to employ additional clerks as

deemed necessary and approved by the Fayette County Commission. The salaries of said clerks shall be fixed by the Fayette County Commission.

Section 3. The Tax Assessor, provided sufficient funds are available, shall be authorized to employ additional clerks as deemed necessary and approved by the Fayette County Commission. The salaries of said additional clerks shall be fixed by the Fayette County Commission and may be paid from funds charged to the maintenance of the property reappraisal program.

Section 4. The Tax Collector, provided sufficient funds are available, shall be authorized to employ additional clerks as deemed necessary and approved by the Fayette County Commission. The salaries of said clerks shall be fixed by the Fayette County Commission.

Section 5. The provisions of this act shall become effective retroactively to October 1, 1978.

Section 6. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 7. All laws or parts of laws which conflict with this act are hereby repealed.

Section 8. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-741

H. 1067—Clark, Manley

AN ACT

To provide for an additional clerk hire allowance for the office of judge of probate of Greene County.

Be It Enacted by the Legislature of Alabama:

Section 1. The governing body of Greene County is authorized to provide an additional clerk hire allowance of \$2,500.00 annually to the judge of probate to be used for clerical assistance for the chief clerk \$1,500.00 and for the license clerk \$1,000.00 in the office of the judge of probate. This clerk hire

allowance shall be payable out of the general fund of the county and shall be in addition to any other allowance for clerical assistance now provided.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-742

H. 1068—Clark, Manley

AN ACT

To create an Industrial Development Authority for Greene County for the purpose of promoting industry and trade and the development of said county; to provide for the organization, powers, functions, duties and personnel of such Authority and to provide for the payment of the expenses of such Authority.

Be It Enacted by the Legislature of Alabama:

Section 1. For the purpose of promoting industry and trade and to assist the county commission or other like governing bodies in Greene County in their pursuits therefor, there is hereby created an Industrial Development Authority for Greene County which shall be composed of seven (7) members. All members of the Authority shall be residents and qualified electors of Greene County. The seven members of the Authority shall be appointed by the Greene County state legislative delegation. The members of the Authority shall serve for terms of four years. Successors to members of the board shall be appointed in the same manner as the original members are appointed and all members shall serve until their successors are so appointed. Vacancies on the board shall be filled in the same manner as the original members are appointed, but any person appointed to fill a vacancy shall serve only for the unexpired portion of the term.

Section 2. The Authority shall hold an organizational meeting within thirty days after the appointment of all its members and shall elect a Chairman and Vice Chairman from among its members. Such officers shall serve for such term as the Authority by rule or regulation may prescribe. After the organizational meeting, the Authority shall meet at the time and place designated

in the call. The Chairman or a majority of its members may call a meeting of the Authority, and at least four meetings shall be held annually. The Chairman shall preside at each meeting of the Authority. In his absence, the Vice Chairman shall preside. A majority of the members of the Authority shall constitute a quorum. Members of the Authority shall receive no compensation for their services, but they shall be entitled to reimbursement for their actual and necessary expense incurred in the performance of their official duties.

Section 3. Upon the organization of the Industrial Development Authority of Greene County said Authority shall be constituted an instrumentality for the exercise of public and essential governmental functions and the exercise of the powers conferred by this act, and the development of the county shall be deemed to be an essential governmental function of the county.

Section 4. The Authority may employ a Director, who shall be its chief administrative officer and serve as secretary to the Authority. The Authority shall fix the salary of the Director who shall serve at its pleasure. The Director shall have authority to employ clerical and other assistants subject to the approval of the Authority. The Authority may require the Director to be bonded for the faithful performance of his duties before he enters upon the discharge thereof.

Section 5. The Authority or its agents and employees may (a) investigate, study and engage in basic research relative to the natural resources of land, water, minerals, and people in the county and apply its findings in efforts to promote a sound and balanced agricultural, industrial and economic development of the county; (b) cooperate with municipal, regional, state or federal planning or other industrial development authorities; (c) publicize and advertise the industrial, commercial and agricultural resources and opportunities in the county; (d) collect, compile and distribute literature concerning the facilities, advantages and attractions of the county, the educational, historic, recreational and scenic places of interest within the county and the air, water and highway transportation facilities; (e) contract with other agencies, individuals or corporations to promote the purposes of this act, and expressly to contract with any municipality in the county, not having an industrial development board, to act as the development agency for such municipality, and as such agency to exercise all powers granted to municipal development agencies under the general laws of the state; (f) enter upon any land in the county, with consent of the owner, and make examinations and surveys and place and maintain necessary monuments and markings thereon;

(g) accept gifts, grants, bequests or devises; and (h) acquire land for industrial park development and construct buildings for lease, for industrial development only.

Section 6. The Authority may establish and maintain an office at some suitable place within the county, and the cost of securing, furnishing, equipping, lighting, heating and maintaining such office shall be a lawful charge against any funds appropriated for the use of the Authority.

Section 7. The county governing body of Greene County shall annually, before the end of the county's fiscal year, fix the amount to be expended by the Industrial Development Authority herein created, and shall deposit such amount as it determines to be necessary for the efficient operation of the Authority in a special fund in the county treasury to the credit of said Authority. All other funds otherwise coming into the hands of said Authority shall likewise be deposited in said fund. The ordinary and necessary operating expenses of the Authority, including the expenses of its members and the salaries and expenses of employees of the Authority shall be paid out of Authority funds.

Section 8. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 9. All laws or parts of laws in conflict with this act are repealed.

Section 10. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-743

H.J.R. 335—Smith (M), Carter

HOUSE JOINT RESOLUTION

ENUNCIATING THE LEGISLATIVE INTENT OF ACT NO. 79-252, H. 133 OF THE 1979 REGULAR SESSION, AS IT RELATES TO ANY PERSON ASSIGNED TO THE CAPITOL BUILDING AS CAPITOL HOSTESS AND DIRECTING CERTAIN STATE OFFICIALS TO COMPLY WITH ITS PROVISIONS.

WHEREAS, Act No. 79-252, H. 133 of the 1979 Regular Session provided that the bureau of publicity would have certain persons then serving as capitol hostesses designated as "welcome center workers" and that these people would be assigned to the capitol building; and

WHEREAS, it was and is the legislative intent that these capitol hostesses now assigned as "welcome center workers" and assigned to the capitol for the preceding twelve months prior to the enactment of Act No. 79-252, continue to perform their duties in the capitol building and be paid at the same rate as other capitol hostesses; and

WHEREAS, it was the further legislative intent that such persons were not to be required to travel; and

WHEREAS, the provisions of the said act are being ignored; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the director of the state bureau of publicity and information, the personnel department and any person responsible in any degree under the provisions of said Act No. 79-252 shall proceed forthwith to see that the provisions of said act are implemented and that any difference in the salary paid, since the effective date of the act, and the salary which should have been paid shall be paid retroactively to the effective date of the act.

BE IT FURTHER RESOLVED, That copies of this resolution be sent to each welcome center hostess assigned to the state capitol building, the director of the state bureau of publicity and information, the state personnel department, the director of finance, and the state comptroller.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-744

H. 816—Sandusky

AN ACT

To amend Section 41-4-93 of the Code of Alabama, 1975, so as to prevent the appropriations for the maintenance of state roads and bridges from reverting to the Public Road and Bridge Fund from which the appropriation was made at the end of the fiscal year.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 41-4-93 of the Code of Alabama, 1975, is

hereby amended to read as follows:

“Section 41-4-93.

“Section 1. All unencumbered balances of all appropriations shall revert to the state treasury at the end of each fiscal year and to the credit of the general fund or the special fund from which the appropriation or appropriations were made. Appropriations for the purchase of land or the erection of buildings or new constructions or for highway department maintenance of roads and bridges on the state highway system shall continue in force until the attainment of the object or the completion of the work for which such appropriations are made.”

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-745

H. 432—Boles

AN ACT

To amend Title 12, Chapter 19, Section 92 of the Code of Alabama 1975, so as to revise and establish fees and allowances paid to constables in Jefferson County: to repeal conflicting statutes of provisions thereof; to provide for an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. Title 12, Chapter 19, Section 92(b) of the Code of Alabama 1975 shall be and is hereby amended to read as follows:

“(b) In civil cases, the fees of constables shall be the same as the sheriff’s fees on December 18, 1973, when performing the same or like services, where the amount of in controversy is \$20.00 or more, except in Jefferson County where constables shall receive a fee of three dollars (\$3.00) for actual service of each process, and a gasoline allowance of two dollars (\$2.00) for the actual service of each process.

Section 2. All laws, or sections or parts of laws in conflict herewith, shall be and are hereby repealed to the extent of the conflict.

Section 3. This act is severable, and if any portion hereof is adjudged or declared unconstitutional, the remaining portion not so adjudged or declared shall stand.

Section 4. This act shall become effective immediately upon its adoption by the Legislature of Alabama and approval by the governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-746

H. 669—Hall

AN ACT

Relating to Madison County; to require that certain county owned motor vehicles be marked for identification purposes with a county decal or stencil on the sides of such vehicles, and to provide a fine for violation of such identification.

Be It Enacted by the Legislature of Alabama:

Section 1. No later than ninety days after the effective date of this act, except for those motor vehicles used for investigatory purposes by the sheriff's department, the district attorney's office, and those motor vehicles assigned to elected officials for their use only, all motor vehicles owned by Madison County shall be marked for identification purposes with uniform county decals or stencils on the sides of such vehicles.

Section 2. Such uniform county decals or stencils shall not be smaller than 140 square inches; shall be prominently and permanently affixed to each side of each county vehicle; and shall contain the phrase "Madison County Vehicle" on its top line, followed by the word "District" and the appropriate district numerical designation on its second line, followed by the name of the department to which such vehicle is assigned on its third line.

Section 3. The Madison County Commission shall be responsible for implementing the provisions of this act and shall make all decisions regarding the format or pattern for such decals or stencils. However, no format or pattern shall be adopted other than that which would conform to Section 2 of this bill.

Section 4. Any elected official of said county who has been assigned a county owned vehicle that is not marked for identification as provided in this act shall be fined personally \$50.00 per day up to \$500.00 for such violation. If such vehicle is not assigned to a specific individual then the elected officials of the

department to which the vehicle has been assigned shall be fined personally \$50.00 a day up to \$500.00 collectively. Such money shall be deposited into the general fund of the county treasury.

Section 5. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this act are hereby repealed.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-747

H. 974—Waggoner

AN ACT

To amend the title and Section 3 of Act No. 388 of the Regular Session of the Legislature of Alabama of 1965 (Acts 1965, p. 533), so as to levy a license tax in all counties in this state of 600,000 population or more according to the last or any succeeding federal census, on persons engaged in selling alcoholic, spirituous, vinous, or fermented liquor at retail and to fix the rate or amount of such tax in the following amounts: Whiskey, gin, brandy, rum, vodka, cocktails, and all other alcoholic beverages except malt beverages, wines and other fermented beverages, sold, distributed, delivered, stored, or taken out of storage within the county, on each bottle or container of two (2) ounces or less, ten (10) cents; on each bottle or container of more than two (2) ounces and not more than one-half pint, twenty-five (25) cents; on each bottle or container of more than one-half pint and not more than one pint one dollar (\$1.00); on each bottle or container of more than one pint and not more than one-fifth of a gallon one dollar and sixty cents (\$1.60); on each bottle or container of more than one-fifth of a gallon and not more than one quart, two dollars (\$2.00); on each bottle or container of more than one quart, two dollars (\$2.00) plus ten (10) cents for each one and six-tenths (1-6/10) ounces or fractional part thereof in excess of one quart; wines and other fermented beverages sold, distributed, delivered, stored, or taken out of storage within the county, on each bottle or container, twenty-five (25) cents; to provide that if the governing body of any such county finds and declares by resolution that the discontinuance of the State prohibition against licensees' selling, or keeping for sale, liquor or wine except in the original unbroken package is imminent, then such governing body shall be authorized to levy a license tax, in the amount below prescribed, on each person selling, distributing, delivering, storing, or withdrawing from storage at retail, within the county the beverages hereinabove described in this title; to provide that the amount of such license tax said governing body shall be authorized to levy, as aforesaid, shall be fixed in the ordinance or resolution levying such license tax, which amount shall not be less than 3% or more than 6% of the gross receipts realized by such person from the distribution, delivery, sale, storage or withdrawal from storage in the county of whiskey, gin, brandy, rum, vodka, cocktails and all other alcoholic beverages except malt beverages sold, distributed, stored, or taken out of storage within the county; to provide that the last

mentioned license tax shall be called 'the gross receipts tax'; to provide that upon and after the date whereon the gross receipts tax becomes effective the license tax first hereinabove mentioned shall no longer be in effect, subject, however, to the proviso that no person shall be relieved of his obligation to pay any license tax first above mentioned due by such person for, or on account of, transactions occurring when the license tax first above mentioned was in effect; to provide for the payment of either of the two license taxes above mentioned, which is in effect and for the making and maintaining of records and reports with respect thereto; to provide for the collection and distribution of either of the above mentioned license taxes which is in effect and for the enforcement of the provisions of this act; to provide that the Board of Revenue, County Commission or like governing body of any such county shall have the authority to adopt ordinances, rules and regulations pertaining to the collection of either of the above mentioned license taxes or pertaining to the making of reports and maintaining of records with respect thereto; to provide that such ordinances, rules and regulations shall have the force and effect of law; to provide that either of the above mentioned taxes shall constitute a debt to such county which may be collected by civil suit in addition to all other methods provided by law; to provide that either of the above mentioned license taxes, together with interest and penalties with respect thereto, shall constitute a lien upon the property of any person from whom the tax is due; to require any person engaged in selling alcoholic, spirituous, vinous, or fermented liquor to obtain a permit to sell such beverages from the Judge of Probate, License Commissioner, Director of County Department of Revenue, or other public officer performing like duties in such counties; to require any such person to make a deposit of cash or marketable securities or to file a bond in an approximate sum of two times the estimated average monthly tax; to provide that the revenue derived from either of the above mentioned license taxes, less the cost of collection, shall be paid into an Indigent Care Fund, and to provide the purpose or purposes for which either of the above mentioned taxes may be expended; to repeal any act now in effect in counties subject to this act which levies a license tax on the sale of alcoholic, spirituous, vinous, or fermented liquors, and specifically to repeal Act No. 559 of the 1959 Regular Session of the Legislature of Alabama, approved November 15, 1959; to provide for appeals from any tax assessment made under this act; to provide that all taxes due and the remedies and penalties under said statutes repealed shall continue in effect as to any taxes accrued under said repealed statutes; to provide and fix penalties for the violation of any of the provisions of said act; and to otherwise provide for the administration of said act and for the effective date thereof.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 388 of the Regular Session of the Legislature of Alabama of 1965, approved August 13, 1965, which said Act appears on pages 533-547 of the Acts of the Legislature of Alabama of 1965, is hereby amended so as to provide as follows:

"An Act to levy a license tax in all counties in this state of 600,000 population or more according to the last or any succeeding federal census, on persons engaged in selling alcoholic, spirituous, vinous, or fermented liquor at retail and to fix the rate or amount of such tax in the following amounts: Whiskey, gin, brandy, rum, vodka, cocktails, and all other alcoholic beverages except malt beverages, wines and other fermented beverages, sold, distributed, delivered, stored, or taken out of storage within the county, on each

bottle or container of two (2) ounces or less, ten (10) cents; on each bottle or container of more than two (2) ounces and not more than one-half pint, twenty-five (25) cents; on each bottle or container of more than one-half pint and not more than one pint one dollar (\$1.00); on each bottle or container of more than one pint and not more than one-fifth of a gallon one dollar and sixty cents (\$1.60); on each bottle or container of more than one-fifth of a gallon and not more than one quart, two dollars (\$2.00); on each bottle or container of more than one quart, two dollars (\$2.00) plus ten (10) cents for each one and six tenths ($1\frac{6}{10}$) ounces or fractional part thereof in excess of one quart; wines and other fermented beverages sold, distributed, delivered, stored, or taken out of storage within the county, on each bottle or container, twenty-five (25) cents; to provide that if the governing body of any such county finds and declares by resolution that the discontinuance of the State prohibition against licensees' selling, or keeping for sale, liquor or wine except in the original unbroken package is imminent, then such governing body shall be authorized to levy a license tax, in the amount below prescribed, on each person selling, distributing, delivering, storing, or withdrawing from storage at retail, within the county the beverages hereinabove described in this title; to provide that the amount of such license tax said governing body shall be authorized to levy, as aforesaid, shall be fixed in the ordinance or resolution levying such license tax, which amount shall not be less than 3% or more than 6% of the gross receipts realized by such person from the distribution, delivery, sale, storage or withdrawal from storage in the county of whiskey, gin, brandy, rum, vodka, cocktails and all other alcoholic beverages except malt beverages sold, distributed, stored, or taken out of storage within the county; to provide that the last mentioned license tax shall be called 'the gross receipts tax'; to provide that upon and after the date whereon the gross receipts tax becomes effective the license tax first hereinabove mentioned shall no longer be in effect, subject, however, to the proviso that no person shall be relieved of his obligation to pay any license tax first above mentioned due by such person for, or on account of, transactions occurring when the license tax first above mentioned was in effect; to provide for the payment of either of the two license taxes above mentioned, which is in effect and for the making and maintaining of records and reports with respect thereto; to provide for the collection and distribution of either of the above mentioned license taxes which is in effect and for the enforcement of the provisions of this act; to provide that the Board of Revenue, County Commission or like governing body of any such county shall have the authority to adopt ordinances, rules and regulations pertaining to the collection of either of the above mentioned license taxes or pertaining to the making of reports and

maintaining of records with respect thereto; to provide that such ordinances, rules and regulations shall have the force and effect of law; to provide that either of the above mentioned taxes shall constitute a debt to such county which may be collected by civil suit in addition to all other methods provided by law; to provide that either of the above mentioned license taxes, together with interest and penalties with respect thereto, shall constitute a lien upon the property of any person from whom the tax is due; to require any person engaged in selling alcoholic, spirituous, vinous, or fermented liquor to obtain a permit to sell such beverages from the Judge of Probate, License Commissioner, Director of County Department of Revenue, or other public officer performing like duties in such counties; to require any such person to make a deposit of cash or marketable securities or to file a bond in an approximate sum of two times the estimated average monthly tax; to provide that the revenue derived from either of the above mentioned license taxes, less the cost of collection, shall be paid into an Indigent Care Fund, and to provide the purpose or purposes for which either of the above mentioned taxes may be expended; to repeal any act now in effect in counties subject to this act which levies a license tax on the sale of alcoholic, spirituous, vinous, or fermented liquors, and specifically to repeal Act No. 559 of the 1959 Regular Session of the Legislature of Alabama, approved November 15, 1959; to provide for appeals from any tax assessment made under this act; to provide that all taxes due and the remedies and penalties under said statutes repealed shall continue in effect as to any taxes accrued under said repealed statutes; to provide and fix penalties for the violation of any of the provisions of said act; and to otherwise provide for the administration of said act and for the effective date thereof."

Section 2. Section 3 of Act No. 388 of the Regular Session of the Legislature of Alabama of 1965, approved August 13, 1965, (Ala. Acts, 1965, pp. 535-537) is hereby amended so as to provide as follows:

"Section 3. Levy of Tax. (a) Definitions. As used in this Section 3, the following terms have the meanings here given them: 'the county' means any county now or hereafter subject to this Act; 'the county governing body' means the county board of revenue, the county commission or other like body of the county; 'the original section 3' means section 3 of Act No. 388 of the Regular Session of the Legislature of Alabama of 1965, approved on August 13, 1965, which said original section 3 appears on pages 535, 536 and 537 of the Acts of the said Regular Session of 1965; 'the 1979 Amendment' means the Act the Legislature of Alabama adopted during its

Regular Session of 1979 amending the original section 3 so as to put said section 3 in its present form; 'section 3 as amended in 1979' means section 3 as amended by the 1979 Amendment; 'the State original unbroken package policy' means the State policy in effect when the original section 3 of Act No. 388 of the 1965 Regular Session was approved in August 1965, prohibiting licensees from selling or keeping for sale liquor or wine except in an original unbroken package; and 'the Director of County Department of Revenue' means the Director of the County Department of Revenue, the License Commissioner, or Judge of Probate of the County, or any other public officer performing like duties in the County.

"(b) Every person engaged in the sale at retail of alcoholic, spirituous, vinous or fermented liquor, except malt or brewed beverages of an alcoholic content not in excess of 4% by weight and 5% by volume, shall, in addition to all other taxes and licenses now imposed by law, pay a license tax to the county in the amount prescribed below in this section 3 of this Act.

"(c) (1) The license tax levied by this subsection (c) of this Section 3 shall remain in effect until but not after the county governing body imposes the gross receipts license tax provided for by subsection (d) of this section 3.

"The license tax levied by this subsection (c) is hereby fixed and created as follows: Whiskey, gin, brandy, rum, vodka, cocktails, and all other alcoholic beverages except malt beverages, wines and other fermented beverages, sold, distributed, delivered, stored, or taken out of storage within the county on each bottle or container of two (2) ounces or less, ten (10) cents; on each bottle or container of more than two (2) ounces and not more than one-half pint, twenty-five (25) cents; on each bottle or container of more than one-half pint and not more than one pint, one dollar (\$1.00); on each bottle or container of more than one pint and not more than one-fifth of a gallon one dollar and sixty cents (\$1.60); on each bottle or container of more than one-fifth of a gallon and not more than one quart, two dollars (\$2.00); on each bottle or container of more than one quart, two dollars (\$2.00) plus ten (10) cents for each one and six-tenths ($1\frac{6}{10}$) ounces or fractional part thereof in excess of one quart; wines and other fermented beverages sold, distributed, delivered, stored or taken out of storage within the county, on each bottle or container, twenty-five (25) cents. On or before the 15th day of the calendar month succeeding the calendar month in which the purchase of such beverages is made, each retailer or person making such purchase for resale shall pay to the county by payment to the Director of County Department of Revenue said license tax at the rate as hereinabove set forth.

"(2) If any amount of said license tax be not paid at or prior to the due date thereof, a penalty of twenty percent (20%) of such amount shall be added thereto and paid by such retailer with a minimum of \$15.00 penalty in any event. In addition to the penalty of 20% or the minimum penalty of \$15.00, whichever shall apply, the Board of Revenue, County Commission, or like governing body of such county may revoke the license of such retailer for delinquent payment of the tax provided for herein. In addition to the penalties herein provided, any delinquent tax shall bear interest at the rate of six per cent (6%) per annum from date until paid.

"(3) It shall be the duty of each person subject to the license tax imposed by this act to keep full and complete records of all purchases, receipts and deliveries of liquor and wine, or either from which records there can be readily obtained information as to the correct amount of license tax due the county. Such records shall be preserved for not less than two (2) years, and shall be open to inspection and checking at all times during regular business hours by the Director of County Department of Revenue or employees of such Director. The person liable for any license tax imposed by this act shall file with the Director of County Department of Revenue, on or before the final date on which the license tax may be paid without penalty such report or reports, and in such form, as the Director of County Department of Revenue may prescribe sworn to or otherwise evidencing the amount of such purchases and the amount of license tax due thereon.

"(4) Any person selling alcoholic, spirituous, vinous, or fermented liquors purchased from any other person who has paid the license tax thereon as fixed in this subsection (c) of this section 3 shall not be required to pay such license; provided, however, that in order to obtain such exemption such person claiming such exemption must, on or before the fifteenth day of the month next succeeding the effective date of this act, and on or before the 15th day of each and every calendar month thereafter, during which he claims such exemptions, file with the Director of County Department of Revenue a written statement, sworn to and subscribed by such person claiming exemption, showing the name and address of such person, each and every purchase, receipt or procurement of alcoholic, spirituous, vinous or fermented liquors made by such person during the calendar month next preceding, together with the name and address of the person from whom purchased, received, or procured, the brand of such beverages, the quantity of each brand of such beverages, the size of containers of each brand of such beverages, the date or dates on which purchased, received or procured, and the disposition thereof by

such person claiming the exemption, and evidence of payment of such tax by the person from whom such purchase was made; such statement to be made on forms prescribed by the Director of County Department of Revenue.

“(5) Each and every person selling alcoholic, spirituous, vinous or fermented liquors subject to this act, except such as claim and obtain exemptions under the provisions of subsection (4) of this section, shall, on or before the 15th day of the month next succeeding the effective date of this act, and on or before the 15th day of each and every month thereafter, file with the Director of County Department of Revenue, on forms prescribed by such official, a written statement, sworn to and subscribed by such person showing the name and address of such person, each and every purchase, receipt or procurement of alcoholic, spirituous, vinous or fermented liquors made by such person during the calendar month next preceding, together with the name and address of the person or agency from whom purchased, received, or procured, the price paid for each such purchase, the brand of such beverages, the quantity of each brand of such beverages, and the date or dates on which purchased, received, or procured; any licensee who has made no purchases or sales of beverages covered by this act during any month must file with the Director of County Department of Revenue, on forms prescribed by such Director a written statement sworn to and subscribed by such person, attesting that no such purchases or sales were made in such month. This report must be filed on or before the 15th day following any such month; and any person failing, refusing or omitting to file such statement as herein prescribed shall be guilty of a misdemeanor, and each day that such default continues shall constitute a separate offense. It shall constitute a misdemeanor for any licensee to violate any prohibition, established by or under State law, against licensees’ selling, or keeping for sale, liquor or wine except in an original unbroken package or container.

“(d) Purpose of this subsection (d). When the original section 3 was adopted in 1965, the State original unbroken package policy was in effect and remained in effect continuously thereafter until the 1979 amendment was drafted. When the 1979 amendment was drafted, said State policy was in effect, but the State officials authorized to establish such State policy had decided to discontinue such policy or were seriously considering the discontinuance of said policy. The discontinuance of the State original unbroken package policy would result in the license tax levied by subsection (c), above, of this section 3 being uncollectible. The purpose of the Legislature in adopting this subsection (d) is to authorize the county governing

body to levy the license tax provided for in this subsection (d), when the governing body of the county finds, and declares by resolution the following: that a State officer, or other State authority or agency, named in the resolution, authorized to discontinue the State original unbroken package policy has publicly announced that such policy will be discontinued, and that when the said resolution is adopted it appears that on a date publicly announced by a State officer, authority or agency, which date shall be recited in the resolution, it appears that the State original unbroken package policy will be discontinued.

"Contemporaneously with the adoption of such resolution, or after its adoption, the county governing body shall be authorized to levy the license tax provided for in this subsection (d) on every person engaged in the sale at retail in the county of alcoholic, spirituous, vinous or fermented liquor, except malt or brewed beverages of an alcoholic content not in excess of 4% by weight and 5% by volume, which license tax shall be in lieu of the license tax provided for by subsection (c) of this section 3, above, and in addition to all other taxes and licenses imposed by law. The license tax the county governing body shall be authorized to levy by this subsection (d) is hereby fixed and created in the amount below stated.

"Such license tax shall be in the amount fixed in the ordinance or resolution levying such license tax, which amount shall not be less than 3% or more than 6% of the gross receipts realized by the licensee from distributing, delivering, selling, storing or withdrawing from storage at retail within the county whiskey, gin, brandy, rum, vodka, cocktails and all other alcoholic beverages except malt beverages. The license tax provided for by this subsection (d) is hereinafter called 'the gross receipts tax'. The county governing body shall be authorized to repeal the gross receipts tax at any time, or to increase or reduce the amount of the gross receipts tax within the limitations as to amounts the second foregoing sentence prescribes. Any ordinance or resolution of the county governing body repealing the gross receipts tax, or changing the amount thereof, shall state the date whereon the repeal or change shall become effective. The repeal of the gross receipts tax, or a change of the amount thereof, shall not affect the liability of any person for any payment of the gross receipts tax insofar as such liability relates to any transaction occurring before the effective date of the said repeal or the said change.

"In the event the governing body repeals the gross receipts tax, the license tax provided for by subsection (c) above, of this Section 3, shall become effective on the first day of the calendar month next

succeeding the date whereon the repeal of the gross receipts tax becomes effective.

“The ordinance or resolution levying the gross receipts tax shall state the date on which said gross receipts tax shall become effective, which date shall be the first day of a calendar month subsequent to the month wherein the said ordinance or resolution is adopted. On and after the date whereon the gross receipts tax becomes effective, the license tax levied by subsection (c), above, shall no longer be in effect, provided, however, that no licensee shall be relieved of his obligation to pay any license tax due by such licensee under said subsection (c) for, or on account of, transactions occurring when the license tax provided for by said subsection (c) was in effect.

“The ordinance or resolution levying the gross receipts tax shall provide that in computing the amount of the gross receipts license tax a licensee is obligated to pay to the county such licensee shall not include any receipts realized by such licensee from the sale, distribution, delivery or storage or removal from storage of any alcoholic beverages on which such licensee paid, or is obligated to pay, the license tax provided for by subsection (c), above. The Director of County Department of Revenue shall adopt rules and regulations designed to assure that no licensee is required to pay the gross receipts tax on, or with respect to, any alcoholic beverages on, or with respect to, which such alcoholic beverages the licensee paid, or is obligated to pay, the license tax provided for by subsection (c), above.

“The gross receipts tax, levied by this subsection (d) shall be due and payable monthly on or before the 15th day of the month next succeeding the month in which the tax accrues. On or before the day on which said tax becomes due and payable each person on whom said tax is imposed shall render to the Director of the County Department of Revenue on a form prescribed by said Director, a true and correct statement showing the gross sales, the gross proceeds of sales, or gross receipts realized by such person from the sale, distribution, delivery, storage or removal from storage at retail in the County of any alcoholic beverages, subject to the gross receipts tax for the then next preceding month, together with such other information as the said Director may require, and at the time of making such monthly report such person shall pay to the Director of the County Department of Revenue the amounts of the tax shown to be due.

“The following provisions of subsection (c), above, of this section 3 shall apply to the gross receipts tax levied by subsection (d)

of this section 3: the provisions of that paragraph numbered (2) in subsection (c) imposing a penalty for failure to pay the license tax when due; the provisions of that paragraph numbered (3) in subsection (c) requiring licensees to keep and preserve records; and the provisions of that paragraph numbered (4) in said subsection (c) providing for exemptions.”

Section 3. This Act shall become effective on its approval by the Governor or on its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-748

S. 293—Cook and White

AN ACT

To amend Section 120 of Act 407, HB 198, Regular Session 1971, (Acts of Alabama 1971, Volume II, Page 774), as amended, which regulates the licensing of insurance agents, by imposing the requirement of satisfactory completion of a pre-qualification course prior to taking the written examination as provided in Section 120, paragraph (8).

Be It Enacted by the Legislature of Alabama:

Section 1. Section 120, Act 407, HB 198 of the Regular Session of 1971, as amended, is hereby further amended to read as follows:

“Section 120. GENERAL QUALIFICATIONS FOR LICENSE. For the protection of the people of this state, the Commissioner shall not issue, continue or permit to exist any agent, broker, solicitor, managing general agent or service representative license except in compliance with this chapter, or as to any individual not qualified therefor as follows:

(1) Must be a natural person Nineteen (19) years or more of age, or be an individual whose disabilities of minority have been removed; except, that a managing general agent license may also be issued to a firm or corporation.

(2) Must be a citizen of the United States of America.

(3) Must be domiciled in and have been a bona fide resident of this state for not less than six (6) months preceding the date of application for the license; except that this provision does not apply as to managing general agents or service representatives. Provided, further that the residence and domiciliary requirement may be waived upon determination by the Commissioner that such

waiver would be in the public interest and would prevent a hardship, if the applicant for a license:

(a) is a bona fide resident of and maintains an established office in a populous community lying partly in Alabama and partly in an adjoining state, which is composed of two or more contiguous cities, towns or villages not completely separated by a natural boundary;

(b) designates in writing the Commissioner of insurance as his agent or attorney for acceptance of personal service of process in all actions involving matters connected with or arising out of his insurance business conducted in Alabama;

(c) agrees to keep like records, make similar reports, and permit inspection of his records to the same extent as other licensees hereunder; and

(d) if the adjoining state by law or administrative action accords residents of Alabama a like waiver, benefit, or privilege.

(4) Must be of good moral character and not have been convicted of a felony nor of any crime involving moral turpitude.

(5) Must intend to, and commencing immediately after issuance of such a license shall during the existence of the license, actively engage as to the general public in the business permitted under this license.

(6) If to be licensed as a broker, must have had experience either as an agent, solicitor, adjustor, managing general agent, broker, or as an employee or special representative of an insurer or insurers or special education or training of sufficient duration and extent reasonably necessary for competence in fulfilling the responsibilities of a broker.

(7) Must not use, or intend to use, the license principally for the purpose of procuring insurance of his own risks or interests or those of his relatives to the second degree or of his firm, corporation or employer.

(8) Must attend a pre-qualification course consisting of forty classroom hours or equivalent individual instruction on the general principles of insurance, such course to be taught only by those educational institutions, a junior or senior college, a technical college, a trade school, insurance companies or insurance trade organizations which hold written authority from the Commissioner to issue certificates of completion.

(a) Each such authority holder must apply annually for the

continued authority to issue certificates under rules and regulations to be prescribed by the Commissioner.

(b) Prior to writing the designated examination for license, the applicant must furnish a certificate of completion of the aforesaid pre-qualification course from the authorized educational institution, insurance company, or insurance trade organization.

(c) All applicants under this chapter who are holders of the professional designation Chartered Property Casualty Underwriter (CPCU) as conferred by the American Institute for Property and Liability Underwriters, Inc., shall be deemed to have completed the pre-qualification course as prescribed in this paragraph.

(d) All applicants for license to transact only the following kinds of insurance shall be exempt from the requirements of this paragraph:

(1) Automobile Physical Damage Insurance,

(2) Industrial Fire (commonly known as debit fire) Insurance.

(3) Physical damage coverage on household goods.

(e) All agents, brokers, solicitors, managing general agents and service representatives who are lawfully licensed as such immediately prior to the effective date of this amendment, are exempt from the requirements of this section unless, after such effective date, any such license is permitted to expire or is otherwise terminated and remains out of effect for a period of twenty-four (24) consecutive months, the exemption from a pre-qualification course shall no longer be applicable.

(9) Must pass any written examination for the license required under this chapter.

Section 2. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws in conflict with this act are hereby repealed.

Section 4. This act shall become effective upon expiration of 180 days following its passage or its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-749

H. 664—Sasser

AN ACT

To amend Section 16-3-9, Code of Alabama 1975, relating to expense allowance and other compensation for members of the state board of education in transacting the business of the board.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 16-3-9, Code of Alabama 1975, shall be and hereby is amended so that said Section 16-3-9 shall read as follows:

"Section 16-3-9. (a) Each member of the state board of education shall be entitled to an expense allowance of \$300.00 per month which shall be in addition to the per diem compensation and actual traveling and other necessary expenses incurred in attending meetings and transacting business of the board, as provided in section 16-3-8. The provisions of sections 36-7-20 through 36-7-23, regulating payment of expenses of state officers and employees traveling on state business, shall not be applicable to members of the state board of education.

(b) The expense allowance herein provided shall be paid out of the Alabama Special Educational Trust Fund in the same manner as other expenses of the state board of education are paid."

Section 2. The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. This Act shall become effective on October 1, 1979.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-750

H. 767—Cabaniss, McMillan,
Drinkard, Warren, Dixon,
Biddle, Pegues

AN ACT

To amend Code of Alabama 1975, Section 9-11-51, so as to increase the penalty for nonresident hunting without a license.

Be It Enacted by the Legislature of Alabama:

Section 1. Code of Alabama 1975, Section 9-11-51 is amended to read as follows:

"§ 9-11-51. (a) Any person other than a nonresident who

hunts on lands other than he owns and permanently resides thereon or rents or leases strictly for growing agricultural crops as a means of a livelihood and resides on such lands without first obtaining a county hunting license permitting him to do so, or who hunts outside of the county in which he actually resides without first obtaining a state hunting license permitting him to do so, or who lends or transfers his hunting license to another shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$10.00 nor more than \$25.00 for each offense; provided, that all landowners and landlords and members of their immediate families residing and having their permanent residence with them may hunt upon their own land on which they reside and have their permanent residence without a license; and tenants and members of their immediate families living and having their permanent residence with them may hunt upon the lands which they rent strictly for agricultural purposes as a means of livelihood and on which they permanently reside without a license.

“(b) Any nonresident of the state who hunts in this state without first obtaining a nonresident hunting license permitting him to do so, or who lends or transfers his hunting license to another shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than three times the cost of the nonresident license without which he was convicted of hunting.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-751

H. 667—Manley

AN ACT

To provide for county law libraries in each county, and for the personnel, space, funding, operation, and maintenance thereof, making said law libraries part of a network with the other law libraries in the state for their mutual benefit; permitting present county law libraries to come under the provisions of this act if they elect to do so.

Be It Enacted by the Legislature of Alabama:

Section 1. The governing body of each county by resolution thereof shall have the power to establish and maintain a county law library for each courthouse in their respective counties for the use and benefit of the county and state officials, court system, and the

public; and shall have the power to appropriate and set aside for the establishment, maintenance, and support of said libraries, such space and funds as it shall deem necessary and appropriate. All resolutions setting up county law libraries shall be filed in the probate office of the county where located and with the Administrative Director of Courts.

Section 2. The governing body of each county having county law libraries under existing laws on the effective date of this act may come under the provisions of this act by resolution thereof, upon the request of the presiding circuit judge, and the filing of a copy of said resolution with the Secretary of State and the Administrative Director of Courts. This is an alternative method to the local act method of establishing county law libraries and a county may elect at any time to use either method but may not have a county law library under both methods at the same time. All county law libraries established under the provisions of this act shall become owners and successors to all property, funds, and obligations of their predecessors and all property and funds subsequently acquired by the county law libraries.

Section 3. In return for the county law libraries serving the legal materials needs of the county and court officials and of the citizens of the county, the county governing body may furnish adequate space and utilities for law libraries established under the provisions of this act and may supplement the book and materials budget if it considers such to be needed.

Section 4. Municipal governing bodies may appropriate funds or property to the county law libraries in consideration of said libraries making their facilities and holdings available to the citizens of the municipalities.

Section 5. Upon the establishment of a county law library, or the continuance of a present county law library under the provisions of this act, the presiding judge of the circuit, or a district or circuit judge designated by him, may appoint a full or part time County Law Librarian or custodian.

Section 6. The presiding circuit judge for the county or County Law Librarian if one exists, shall administer the county law library and shall disburse the library funds, and shall appoint such librarians and assistants as are necessary for the proper operation of the library. The presiding judge of the circuit shall appoint an advisory committee to the county law library.

Section 7. Upon the establishment of a county law library under the provisions of this act each county shall have and maintain

a separate fund known as the County Law Library Fund and may have a separate law library fund for each law library in the county. The county law library funds shall consist of funds appropriated by the state, county, or municipal governments, funds collected under the provisions of law, proceeds from the sale of copies, books and other materials, or received from donations, gifts, grants, and funds other than those appropriated, and shall be audited as county funds are audited. Said fund may be used to match grants for library purposes. Library funds may be used to pay library personnel. All purchases by or on behalf of such library shall be exempt from all State of Alabama, county or municipal sales, use, or other similar taxes.

Section 8. County law libraries shall have the power to receive gifts, grants, and to exchange books and materials with other libraries and may furnish the legal needs of books, materials, and copies to the county officials and circuit, probate, and district court officials at no cost.

Section 9. For the support and maintenance of county law libraries established under the provisions of this act a library fee of two dollars shall be paid in all causes and cases of whatever nature in the district and circuit courts of the various counties wherein this law is in effect, to be collected as other court costs are collected and paid at the same time as docket or filing fees are paid. Said library fees shall be paid in all proceedings wherein a docket or filing fee is paid. All of the funds collected under the provisions of this section shall be transmitted to the proper County Law Library Fund by the tenth of each month following their collection.

Section 10. County Law libraries shall be on the distribution list of the Secretary of State to receive one set each of the Acts of Alabama and the Code of Alabama and the supplements thereto.

Section 11. The county law libraries are a part of a network of law libraries with the state-supported law libraries, and the non-state-supported law libraries on a voluntary basis, for their mutual benefit.

Section 12. The state, counties, and state agencies have the authority to transfer, sell, give, or lend books, property, and materials to the county law libraries; and said county law libraries have the authority to transfer books, property, and materials to the state, counties, and state agencies, and to other county law libraries in the state on a voluntary basis.

Section 13. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such

declaration shall not affect the part which remains.

Section 14. The provisions of this act shall become effective immediately upon its passage and approval by the governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-752

H.J.R. 250—Gafford, Biddle, McMillan

HOUSE JOINT RESOLUTION

URGING THE LEGISLATURE TO ARRIVE AT A WAY TO FUND THE HIGHWAY PROGRAM AND REACTIVATING THE COMMITTEE TO STUDY THE TAX STRUCTURE OF THE STATE OF ALABAMA AND THE DISTRIBUTION OF TAX REVENUES CREATED BY ACT NO. 1178, HJR 430 OF THE 1975 REGULAR SESSION AND MAKING SAID INTERIM STUDY COMMITTEE A CONTINUING COMMITTEE.

WHEREAS, the Legislature is urged to arrive at a way to fund the highway program of this state before the situation becomes critical and before the roads in Alabama fall into total disrepair due to lack of maintenance, and

WHEREAS, funds for road, bridge and highway projects under construction must be obtained for the continuation and completion of such projects; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the provisions of Act No. 1178, HJR 430 of the 1975 Regular Session, creating the interim committee to study the tax structure of the state of Alabama and the distribution of tax revenues is hereby reactivated and said committee shall be a continuing committee to study funding needs and the distribution of tax revenues of the State of Alabama.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-753

H.J.R. 327—Manley, Campbell

HOUSE JOINT RESOLUTION

COMMENDING REGINALD T. HAMNER, EXECUTIVE DIRECTOR, ALABAMA STATE BAR, FOR HIS SERVICE AS PRESIDENT OF THE NATIONAL ASSOCIATION OF BAR EXECUTIVES.

WHEREAS, Reginald T. Hamner of Montgomery, Alabama, Executive Director of the Alabama State Bar, presently serves as President of the National Association of Bar Executives, he is the first Alabamiam in thirty-eight years to serve in this prestigious position, only the fourth Southerner and the first Southerner since 1970 to serve in such capacity; he has also served as Treasurer, Vice President, President-Elect and as a member of the Executive Committee of the Association; and,

WHEREAS, a native of Tuscaloosa, Mr. Hamner was educated in the public schools of that county and is a graduate of the University of Alabama and of its School of Law; prior to military service as Assistant Staff Judge Advocate, he was Law Clerk to the Honorable Pelham J. Merrill, Associate Justice, Alabama Supreme Court, and following his discharge from the United States Air Force as a Captain in 1968 he served as Director of Legal-Legislative Affairs for the Medical Association, State of Alabama; and

WHEREAS, he was admitted to practice before the Supreme Court of Alabama in 1965, the U.S. District Court for the Middle District of Alabama in 1966, the U.S. Court of Appeals for the Fifth Circuit in 1966, the U.S. Court of Military Appeals in 1968 and the Supreme Court of the United States in 1968; and

WHEREAS, in 1969, Mr. Hamner became Executive Director of the Alabama State Bar, at which time he was the youngest executive director of a state bar in the nation and the youngest person ever to head a state bar; and

WHEREAS, other professional affiliations include membership and active involvement in the American Bar Association, the American Society of Association Executives, earning the Certified Association Executive designation in 1975 through national examination to become one of only five association executives in Alabama to hold this designation and one of only seven bar executives to hold this rating nationwide; and

WHEREAS, he also is a member of the American Judicature Society, Alabama Council of Association Executives, Alabama Law Institute of which he is a council member, the Judicial Conference of the U.S. Fifth Circuit Court of Appeals, Alpha

Epsilon Delta Honor Society; Phi Alpha Delta Legal Fraternity, Delta Tau Delta Social Fraternity, the First Baptist Church of Montgomery which he serves as a member of the Board of Deacons, and numerous other civic and charitable organizations;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we recognize and commend Reginald T. Hamner for his distinguished professional career and especially for his service as President of the National Association of Bar Executives.

BE IT FURTHER RESOLVED That a copy of this resolution be presented to Reginald T. Hamner in recognition of his service to his profession.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-754

S. 358—Proctor

AN ACT

To make a supplemental appropriation to the state board of social work examiners from the state board of social work examiners' fund which is on deposit in the state treasury.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to any and all other appropriations for the fiscal year ending September 30, 1979, there is hereby appropriated to the state board of social work examiners the sum of \$35,000.00 from the state board of social work examiners' fund which is on deposit in the state treasury.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-755

H. 920—Gilmer

AN ACT

To repeal Act No. 736, H. 1861, approved October 6, 1975, Regular Session 1975 (Acts 1975, p. 1501), entitled "An Act Relating to counties having a population of not less than 14,000 nor more than 15,000 inhabitants according to the most recent

federal decennial census; to further regulate the taking, capturing or killing of wildlife in said counties; to regulate the gun and bow and arrow hunting of certain fur-bearing animals to the gun hunting deer seasons; to ban the practice of hanging bait over or near traps used for the taking of fur-bearing animals, and to require the marking of traps under certain conditions; and to provide penalties for violation of this act."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 736, H. 1861, approved October 6, 1975, Regular Session 1975 (Acts 1975, p. 1501), entitled "An Act Relating to counties having a population of not less than 14,000 nor more than 15,000 inhabitants according to the most recent federal decennial census; to further regulate the taking, capturing or killing of wildlife in said counties; to regulate the gun and bow and arrow hunting of certain fur-bearing animals to the gun hunting deer seasons; to ban the practice of hanging bait over or near traps used for the taking of fur-bearing animals, and to require the marking of traps under certain conditions; and to provide penalties for violation of this act," is hereby expressly repealed.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1979

Time: 4:00 P.M.

Act No. 79-756

H. 427—Drinkard, Shoemaker,
Cabaniss, Blake, Smith (C),
Bowling, Hall, Moore,
Johnson (R.G.), Dial

AN ACT

To provide for a privilege license for automotive dismantlers and parts recyclers; to fix a fee for such license; to require proof of responsibility for such license; to provide for the business which may be carried on under such license; to set qualifications for obtaining such license; to require maintenance of certain records to assist law enforcement officials; to authorize holders of such license to transfer certificates of title to motor vehicles as a licensed motor vehicle dealer; to provide for cancellation or revocation of such license; to require buyers at salvage pools or salvage disposal sales to obtain a buyer's identification card to purchase at such sales, and fix the qualifications for such buyers; to fix a penalty for violations of this Act; and to set an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. Definitions:

(1) Automotive Dismantlers and Parts Recycler - A person,

firm, or corporation engaged in the business of purchasing and dismantling, disassembling, or repairing, wrecked, abandoned, or repairable motor vehicles, and selling the usable parts thereof, or selling such wrecked, abandoned or repairable motor vehicles as a unit at wholesale or selling the hulk of the vehicle after the salvageable parts have been removed. For purposes of this Act, a person, firm or corporation shall be presumed to be engaging in the business of an automotive dismantler and parts recycler if such person, firm, or corporation shall possess ten (10) or more inoperable motor vehicles for more than thirty (30) days, except where such inoperable motor vehicles are being held by a licensed junk dealer or scrap processor for the purpose of recycling scrap metal or are being held by a licensed repair business awaiting repairs nor shall this term include any person, firm or corporation which repairs, reconstructs, or reconditions its own motor vehicles for its own use nor shall it include any person, firm or corporation disposing of a motor vehicle acquired for its own use.

(2) **Motor Vehicle** - Every automobile, motorcycle, mobile trailer, semi-trailer, truck, truck tractor, trailer and other device which is self-propelled or drawn, in, upon or by which any person or property is or may be transported or drawn upon a public highway except such as is moved by animal power or used exclusively upon stationary rails or tracks.

(3) **Place of Business** - The place owned or leased and regularly occupied by a person, firm, or corporation, licensed under the provisions of this Act for the principal purpose of engaging in the business of an automotive dismantler and parts recycler, where the products for sale are displayed and offered for sale, and where the books and records required for the conduct of the business are maintained and kept.

(4) **Salvage Pool or Salvage Disposal Sale** - A scheduled sale at auction or by private bid of wrecked or repairable motor vehicles by insurance underwriters, or dealers, either at retail or wholesale.

Section 2. License Required: No person, firm, or corporation in this State, unless licensed hereunder by the Department of Revenue, shall engage in the business of an automotive dismantler and parts recycler as defined in Section 1 of this Act.

Section 3. Application: Every person, firm, or corporation desiring to engage in the business of an automotive dismantler and parts recycler shall apply in writing to the Department of Revenue on a form prescribed by the Department, which form shall contain:

(1) The name of the applicant.

(2) The street address of applicant's principal place of business.

(3) A statement that applicant's place of business meets federal, state, and local laws concerning screening and beautification, which is a requirement to be licensed under this Act.

(4) The type of business organization of applicant.

(5) Applicant's sales tax number.

(6) Such additional information as may be required by the Department of Revenue.

Section 4. Fee: Every application for license as an automotive dismantler and parts recycler shall be accompanied by a state privilege license fee of Two Hundred Twenty-Five Dollars (\$225.00) and any fee for issuing licenses as may be otherwise prescribed by law.

Section 5. Proof of Responsibility: Every person, firm, or corporation, before being licensed hereunder, must show proof of responsibility by depositing with the Commissioner of Revenue cash in the amount of Five Thousand Dollars (\$5,000.00) or a continuing bond in the amount of Five Thousand Dollars (\$5,000.00) with surety thereon of a company authorized to do business in the State of Alabama, which bond shall be approved by the Commissioner of Revenue, payable to the State of Alabama, and shall be conditioned upon faithful observance of all the provisions of this Act and shall also indemnify any person who suffers any loss by reason of a failure to observe the provisions of this Act.

Section 6. Duration: Every privilege license issued to an automotive dismantler and parts recycler hereunder shall be valid for one fiscal year of the State of Alabama and shall be renewed on October 1, of each year. Thirty (30) days of grace for obtaining such license shall be allowed without penalty. Thereafter, penalties prescribed by law for delinquent licenses shall be imposed.

Section 7. Requirement to Keep Records: Every automotive dismantler and parts recycler shall keep a register of all purchases and sales of motor vehicles for five (5) years from the date of purchase or sale, showing make, model, year, body style, vehicle identification number, and name and address of purchaser or seller. Salvage pools shall furnish the purchaser with the make, model, year, body style, vehicle identification number of the vehicles it sells, and if the owner is an insurance company then the salvage pool shall furnish the purchaser with the claim number. Such registers shall be made available for inspection by identified

law enforcement officers of the state, county, and municipality of the automotive dismantler and parts recycler's business location, at reasonable business hours on business days.

Section 8. Other Licenses Not Required: An automotive dismantler and parts recycler may, as an end result of the conduct of his principal business, accumulate hulks and parts and may scrap such hulks and parts without first obtaining a separate license as a scrap processor or as a junk dealer; further provided that a licensed automotive dismantler and parts recycler shall not be required to obtain a separate license as an automobile dealer, an automobile accessory dealer, an automobile garage or shop, or a storage garage or yard, to engage in the business of an automotive dismantler and parts recycler as set forth herein.

Section 9. Transfer of Motor Vehicle Certificate of Title To or From an Automotive Dismantler and Parts Recycler: An automotive dismantler and parts recycler, duly licensed hereunder, shall have the authority to transfer the certificate of title to a motor vehicle as a dealer under the Alabama Uniform Certificate of Title and Antitheft Act, Section 32-8-45(a), Code of Alabama, 1975.

Section 10. Refusal, Cancellation, or Revocation of License: The Commissioner of Revenue is authorized to refuse a license to any person, firm, or corporation which does not meet the requirements of this Act; to cancel the license of any licensee for wilful failure to continue to meet the requirements of this Act; and is authorized to refuse, cancel, or revoke a license for the felony conviction of a state or federal law involving theft or for violation of the Alabama Uniform Certificate of Title and Antitheft Act or similar laws of other states, by an applicant, a licensee, a partner of applicant or licensee, or director or manager in case of a corporate applicant or licensee.

Section 11. Hearing: Any person, firm, or corporation which is refused a license or whose license is cancelled shall be notified in person or by certified mail to the address given on the application of the applicant or licensee, and upon written request within fifteen (15) calendar days of receipt of such notice, shall be given a hearing upon the proposed action. Said hearing may be conducted by the Commissioner or his designee, and shall be held no more than thirty (30) days after receipt of the written request for a hearing. The hearing shall be informal and the rules of evidence in use by the courts of Alabama shall not be required. Appeals from the decision of the Commissioner will lie directly to the circuit court of the county of the residence of the person, or the home office of a

firm or corporation, if in Alabama. All circuit courts of this state are granted specific authority by this Act to hear and determine such appeals.

Section 12. Salvage Pools: Sales at a salvage pool or a salvage disposal sale shall be open only to persons holding a current automotive dismantler and parts recycler license or their agents or employees as hereinafter defined or any licensee under the provisions of Act 539 of the 1978 Regular Session of the Legislature or agents or employees of such licensees as hereinafter defined. Such persons must have a separate buyer's identification card to buy at a salvage pool or salvage disposal sale.

(1) **Buyer's Identification Card, Application Form.** Any person, firm or corporation desiring to purchase a buyer's identification card must do so by making application to the Department of Revenue upon a form prescribed by the Department, which form shall contain:

(a) Name of applicant.

(b) Street address of applicant's principal place of business.

(c) If an agent or employee, the name of the licensee for whom applicant will be making purchases at salvage pools or salvage disposal sales.

(d) The license number under which the applicant will be making purchases.

(e) Such other information as may be required by the Department of Revenue.

(2) **Qualifications for holders of a buyer's identification card.** In order to obtain a buyer's identification card a person, firm or corporation must:

(a) Be a licensed automotive dismantler and parts recycler or an agent or employee of a licensed automotive dismantler and parts recycler or must be licensed under the provisions of Act 539 of the 1978 Regular Session of the Legislature as a motor vehicle dealer, or a motor vehicle reconitioner or a motor vehicle rebuilder or a motor vehicle wholesaler or an agent or employee of such licensees.

(b) Pay a fee of \$10.00 to the Department of Revenue for processing said buyer's identification card. The card shall be valid as long as the holder is a licensed automotive dismantler and parts recycler or an agent or employee of the same licensed automotive dismantler and parts recycler at the time the card is issued or as long as the holder is licensed under the provisions of Act 539 of the

1978 Regular Session of the Legislature, or an agent or employee of the same such licensee at the time the card is issued. Buyer's identification cards are not transferable and should the holder no longer be a licensed automotive dismantler and parts recycler or an agent or employee of a licensed automotive dismantler and parts recycler or should the holder no longer be licensed under the provisions of Act 539 of the 1978 Regular Session of the Legislature or an agent or employee of such licensee then the card becomes invalid and it is the duty of the holder to return the same to the Department of Revenue.

(c) A licensee shall not have more than three agents or employees who are holders of a buyer's identification card.

(d) It shall be unlawful for the owner, manager or person in charge of any salvage pool or salvage disposal sale to permit the bidding by a person who does not possess a valid buyer's identification card at a sale.

Section 13. Salvage Dealers Licensed in Other States. Nothing herein shall prohibit salvage dealers licensed in other states from buying at a salvage pool or salvage disposal sale provided they qualify under the provisions of this Act as a holder of a buyer's identification card.

Section 13A. It shall be the duty and responsibility of a licensed automotive dismantler and parts recycler who has purchased a motor vehicle and dismantles the same to forward the license tag or plate to the Department of Revenue within thirty (30) days after the purchase. If the vehicle does not have a license tag or plate at the time of purchase by the automotive dismantler and parts recycler he will file an affidavit within thirty (30) days of the date of purchase with the Department of Revenue stating that the vehicle did not have a license tag or plate at the time of purchase and giving the name, make, model and vehicle identification number of such vehicle, the date of purchase and the person, firm or corporation from whom it was purchased.

Section 14. Penalty: Any person violating any provision of this Act shall be guilty of a misdemeanor and upon conviction thereof may be punished by a fine of not less than Twenty-five Dollars (\$25.00) nor more than One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail for not more than six (6) months or by both such fine and imprisonment.

Section 15. Injunction: The District Attorney of any Judicial Circuit may seek injunctive relief in the circuit court to prohibit continued violations of this Act by any person, firm, or corporation.

Section 16. Separable Act. This Act is separable, and a declaration of invalidity of any part by a court of competent jurisdiction shall not affect the parts which remain to the extent that the remainder shall be consistent with the intent of the whole.

Section 17. Effective Date: This Act shall become effective upon the 1st day of the 2nd month following its passage and approval by the Governor or upon its otherwise becoming law.

Approved August 9, 1979

Time: 10:00 A.M.

Act No. 79-757

S. 58—Pearson

AN ACT

To confer on any municipality in the state (a) the power to aid, by donation, loan and transfer of property, any public corporation (i) all the directors of which are provided by law to be elected by the governing body of that municipality, or (ii) not less than one-half of the directors of which are provided by law to be elected by the governing body of that municipality and the remaining directors of which are provided by law to be appointed by the Governor, (b) the power to pay, or provide for the payment of, bonds or other securities issued by such a public corporation; and (c) the power to issue securities of such municipality, including securities that are general obligations and securities payable from a limited source, to provide funds for any such donation, loan, transfer, payment, or provision for payment; and to set forth requirements and other provisions with respect to any securities issued by a municipality for such purpose or purposes, including limitations as to the final maturity thereof and provisions as to the sources of the payment thereof, the pledges that may be made therefor, use of the proceeds therefrom, and related matters.

Be It Enacted by the Legislature of Alabama:

Section 1. Definitions. The words and phrases hereinafter defined, wherever used in this section, shall be deemed to have the respective meanings ascribed to them in this section.

“Municipality” means an incorporated city or town in the State of Alabama.

“Related Public Corporation”, when used herein with respect to a Municipality, means and includes each of the following: (i) a public corporation organized pursuant to an Alabama statute that requires all the directors of such corporation to be elected by the governing body of the Municipality or (ii) a public corporation organized pursuant to an Alabama statute that requires that at least one-half of the directors of such corporation be elected by the governing body of the Municipality and that any directors thereof other than those elected by the governing body of the Municipality be appointed by the Governor of Alabama.

"Securities" means bonds, warrants, notes and certificates of indebtedness, or any of them.

"Municipal Securities" means Securities issued by a Municipality pursuant to authorization in this act.

"Corporation Securities" means Securities heretofore or hereafter issued by a Related Public Corporation.

"Municipal Revenues" means and includes any one or more of the items of tax proceeds and other revenues that a Municipality is authorized to pledge for its bonds under the provisions of Section 11-81-16 of the Code, as amended.

"Code" means the Code of Alabama 1975.

Section 2. Certain Powers of a Municipality With Respect to a Related Public Corporation. In addition to all other powers that a Municipality may have with respect to a Related Public Corporation, any Municipality may, with or without consideration and on such terms as its governing body may deem advisable,

(a) lend or donate money to, or perform services for the benefit of, a Related Public Corporation;

(b) donate, convey, transfer, lease or grant to a Related Public Corporation any property of any kind;

(c) pay, or provide for the payment of, the principal of or interest on any then outstanding bonds or other securities theretofore issued by a Related Public Corporation (whether or not such principal and interest shall have then matured) and any premium that may be payable upon redemption of any such bonds or other securities that may be called for redemption prior to maturity; provided, however, that nothing herein shall be construed to authorize any Municipality to lend its credit, or to grant public money or thing of value in aid of, or to any individual, association or corporation in violation of Section 94 of the Constitution of Alabama, as amended. Any Municipality shall have the power to issue Securities of the Municipality in order to provide moneys to make any loan, donation, or payment provided for in any of the foregoing clauses (a), (b) and (c) of this section.

The Municipality shall have the power to provide for payment of such Corporation Securities by irrevocable trust fund created by agreement between the Municipality and a bank or trust company.

Section 3. Municipal Securities. Any Securities issued by a Municipality pursuant to authorization in Section 2 hereof may be either (i) general obligations of the Municipality or (ii) special

obligations of the Municipality payable solely from a specified source or sources, which source or sources may include any Municipal Revenues, or portions thereof, which the Municipality may lawfully use for such purpose. Such Municipality may pledge for payment of the principal of and interest on any such Municipal Securities that are general obligations any Municipal Revenues that may lawfully be used for such purpose; and may pledge for the benefit of any such special obligations issued by it so much as may be necessary for said payment of the Municipal Revenues from which the said special obligations are made payable. Any such Municipal Securities shall be in such form or forms and denomination or denominations, may bear such rate or rates of interest payable and evidenced in such manner, and may have such maturities of principal, all as may be provided by ordinance or resolution adopted by the governing body of the issuing Municipality; provided, that (i) any such Municipal Securities that are payable solely from Municipal Revenues of the character referred to in clause (4) of Section 11-81-16 of the Code, as amended, shall not have a maturity date later than fifty years after their date, and (ii) any such Municipal Securities other than those described in clause (i) of this sentence shall not have a maturity date later than thirty years after their date. Any Securities issued pursuant to this act shall be made subject to redemption prior to maturity to the extent required by the provisions of Chapter 82 of Title 11 of the Code; and any such Securities shall also be subject to, and shall be issued in accordance with, the applicable provisions of Articles 1 and 2 of Chapter 81 of the said title, except that the maturities of any Securities issued hereunder, the sources of the payment thereof, and the pledges that may be made therefor shall be as herein specifically provided.

The proceeds of any Securities issued by a Municipality for the purpose referred to in clause (c) of Section 2 of this act may be applied for payment of (i) principal, interest and redemption premium with respect to the Corporation Securities to be paid from such proceeds and (ii) the expenses of issuing such Municipal Securities. The aggregate principal amount of any such Municipal Securities may not exceed the total of (a) the then outstanding principal amount of the Corporation Securities for payment of which such Municipal Securities are to be issued, (b) the interest accrued or to accrue to the respective maturities of such Corporation Securities or, in the case of any of the Corporation Securities to be called for redemption (whether on the earliest date on which under their terms they may be redeemed or on some later date or dates), the interest (accrued or to accrue) on such Corporation Securities to the date or dates on which they are to be

redeemed, (c) the amount of any redemption premium required, by the terms of any Corporation Securities to be so redeemed, to be paid as a condition to their redemption prior to their respective maturities, and (d) the amount of the expenses of the issuance of such Municipal Securities.

Section 4. Effective Date. This act shall become effective upon being signed by the Governor or by its otherwise becoming a law.

Approved August 9, 1979

Time: 11:00 A.M.

Act No. 79-758

H. 264—Cates, Gafford, Edwards

AN ACT

To amend Alabama Code 1975, Section 5-5-1, so as to provide that where an emergency exists which might cause closing and liquidating, the Superintendent of Banks may waive the three-week publication requirement in order to permit formation of a new state bank insured by Federal Deposit Insurance Corporation which is participating in a purchase and assumption or other transaction under federal banking laws, such publication to occur after the new bank commences business; and to eliminate the requirement of the publication of the list of stockholders.

Be It Enacted by the Legislature of Alabama:

Section 1. Alabama Code 1975, Section 5-5-1, is amended to read as follows:

“§ 5-5-1. Before a bank can become incorporated under the laws of Alabama, a notice of intention to organize such bank shall be published once a week for three successive weeks in a newspaper, to be designated by the superintendent of banks, published in the city, town or county where such bank is proposed to be located. Such notice shall specify the names of the proposed incorporators, and Stockholders, the name of the proposed corporation, the place where it proposes to do business and the amount of capital paid in with which it will commence business, provided, however, where an emergency exists which might cause closing and liquidating of an existing bank, the superintendent of banks may waive such three-week publication requirement in order to permit formation of a new state bank whose deposits will be insured by the Federal Deposit Insurance Corporation, which is participating in a purchase and assumption or other transaction under federal banking laws, and such publication shall occur after the new bank

commences business. Such publication shall commence within five days of the date the assuming corporation begins business and shall include the requirements stated elsewhere in this section, however, in lieu of the names of all shareholders of the assuming corporation, the names of the executive officers and ten percent (10%) shareholders of the assuming corporation shall be substituted."

Section 2. All laws or parts of laws in conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 9, 1979

Time: 11:00 A.M.

Act No. 79-759

H. 446—Harper (T), Stewart, Roberts,
Cosby

AN ACT

To amend Sections 36-32-1, 36-32-5 and 36-32-7 of the Code of Alabama 1975, relating to the fire fighters' personnel standards and education commission, so as to provide for the inclusion of fire-fighting districts in the classification of fire-fighting agency; to include paid employees of fire-fighting agencies classified as rescue unit personnel and paramedics as well as fire inspectors and investigators in the classification of fire-fighting personnel; to provide for certain exemptions relating to employment; to further prescribe standards for fire-fighting personnel; and to provide for testing and certification of fire-fighting personnel, both paid and volunteer, by the commission.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 36-32-1 of the Code of Alabama 1975, is hereby amended to read as follows:

"§ 36-32-1. For purposes of this chapter, the following words and phrases shall have the following meanings, respectively, unless the context clearly indicates the contrary:

"(1) **FUND.** The Alabama fire fighters' personnel standards and education fund provided for in section 36-32-9.

"(2) **COMMISSION.** The Alabama fire fighters' personnel standards and education commission established by this chapter.

"(3) **FIRE-FIGHTING AGENCY.** The agency of each incorporated city or town or any fire district charged with the responsibility of detecting, combating, and preventing damage to

property and injury and loss of lives by fire.

"(4) FIRE-FIGHTING FIRE PROTECTION PERSONNEL. The paid employees of each such fire-fighting agency who are engaged in the primary function of said agency including fire-fighting, training rescue units, and paramedics as well as fire inspection and fire investigation, but excluding, however, purely stenographic, clerical, janitorial, construction or maintenance employees and water, sewer and solid waste disposal employees."

Section 2. Section 36-32-5 of the Code of Alabama 1975, is hereby amended to read as follows:

"§ 36-32-5. (a) The commission shall have the following functions and duties together with all powers necessary or convenient for the performance thereof:

"(1) To study, obtain data, statistics and information and make reports concerning the recruitment, selection and training of fire-fighting fire protection personnel in the state; to make recommendations for improvement in methods of recruitment, selection and training of such personnel;

"(2) To review from time to time the minimum standard hereinafter described for applicants for and appointees as fire-fighting fire protection personnel;

"(3) To consider, hold public hearings on, adopt and promulgate such standards relating to the physical, mental and moral fitness of any applicant for or appointee as a fire-fighter as do not lower the minimum standards provided in section 36-32-7 or as otherwise permitted by section 36-32-7;

"(4) To study, consider and to make reports from time to time concerning the work and curriculum of, and the courses offered by, fire-fighting training schools in the state and to make recommendations for improving such schools, curricula and courses;

"(5) To encourage the establishment of fire-fighting training schools and courses on fire fighting in existing institutions of learning;

"(6) To gather statistics and data and make reports concerning the activities of the fire-fighting agencies in the state and their accomplishments;

"(7) To certify fire-fighting training and education programs as having attained the minimum required standards suggested by such commission;

"(8) To certify instructors as having qualified as fire department instructors under such conditions as the commission may prescribe;

"(9) To direct research in the field of fire fighting and prevention and to accept gifts and grants for such purposes;

"(10) To recommend curricula for advanced courses and seminars in fire science and fire engineering training in colleges and institutions of higher education;

"(11) To consider, study and make recommendations concerning methods of improving the organization and operation of fire-fighting agencies in the state and cooperative arrangements and agreements which might be effected between such agencies;

"(12) To make investigation to determine whether the requirements of this chapter and the rules, regulations and standards of the commission issued pursuant to this chapter are being observed and followed;

"(13) To recommend to the attorney general, the district attorneys and other appropriate officials measures for the enforcement of the requirements of this chapter and the rules, regulations and standards issued by the commission pursuant to this chapter;

"(14) To enter into cooperative agreements with state and local fire-fighting agencies for the effective coordination of fire-fighting work in the state; and

"(15) To obtain the services and advice of experts in the field of fire fighting for the purpose of aiding the commission in its studies, consideration, reports and recommendations, and the adoption of standards, rules and regulations.

"(b) The commission may administer tests and certify all levels of firefighting fire protection personnel qualifying under the provisions of this chapter, provided volunteer firefighters and paid firefighters above the recruit level shall be certified at their own discretion."

Section 3. Section 36-32-7 of the Code of Alabama 1975, as amended, is hereby amended further to read as follows:

"§ 36-32-7. (a) The minimum standards provided in this section shall apply to applicants and appointees as fire-fighting fire protection personnel who are not fire fighters in the state on October 7, 1975, and to applicants and appointees who, though fire fighters on October 7, 1975, cease to be employed as a fire fighter for

period in excess of 24 months subsequent to said date before becoming an applicant. Except as provided otherwise herein, no city or town shall employ any such applicant who is not on October 7, 1975, a fire fighter and who continues until the date of his application as a fire fighter unless such person shall have first submitted to the appointing authority an application for such employment verified by affidavit of the applicant, and showing compliance with the following qualifications:

“(1) AGE.--The applicant shall be not less than 18 nor more than 35 years of age at the time of appointment; provided, that for the purpose of calculating his age under this chapter, the time spent by any applicant on active duty in the armed forces of the United States of America, not exceeding four years, shall be subtracted from the actual age of such applicant who has attained the age of 39 years.

“(2) EDUCATION.--The applicant shall be a graduate of high school accredited with or approved by the state department of education or shall be the holder of a certificate of high school equivalency issued by general educational development.

“(3) TRAINING.--The applicant shall have completed, within 12 months after appointment, 240 hours of formal fire-fighting training by a certified instructor in a recognized training school approved by the Commission; provided, that appointees appointed after October 7, 1975, and before the date of approval of such training school by the Commission, shall have 12 months after the date of approval of such training school by the Commission to complete said training. Failure to complete such training within the prescribed period shall render the appointment null and void.

“(4) PHYSICAL QUALIFICATIONS. The applicant shall be certified by a licensed practicing physician designated as satisfactory by the appointing authority as in good health and physically fit for the performance of his duties as a firefighter.

“(5) CHARACTER. The applicant shall be a person of good moral character and reputation. His application shall show that he has never been convicted of a felony or misdemeanor involving either force, violence or moral turpitude.

“(b) The foregoing requirements shall not apply to any person who is presently employed as a fire fighter in the state and who since October 7, 1975, has continued to be so employed when he makes application for or is employed as a fire fighter in a different capacity or for a different employer.”

Section 4. The provisions of this act are severable. If any part

of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 9, 1979

Time: 11:00 A.M.

Act No. 79-760

H. 453—Parker, McMillan

AN ACT

To amend further Section 9-17-12, Code of Ala. 1975, so as to allow spacing in the case of irregular sections which exceed 640 acres and so as to allow the Board to designate drilling or production units of up to 160 acres or one governmental quarter section in the case of oil and 640 acres or one governmental section in the case of gas plus 10 percent tolerance so as to allow for irregular sections and to exceed these limitations, after notice and hearing, when it is affirmatively demonstrated that one well can drain the proposed unit and that a larger unit is justified because of technical, economic, environmental, or safety considerations, or other reasons deemed valid by the Board, and to further allow the Board, after notice and hearing, to establish units in oil and gas pools not to exceed 30 percent greater than 160 acres or one governmental quarter section in the case of oil and 640 acres or one governmental section in the case of gas, provided such action is justified by sufficient technical data indicating that such acreage or lands in excess of the aforesaid limitations is being drained or is in imminent danger of being drained and that the owners of interests in such said excess acreage or land cannot otherwise receive their just and equitable share of production from the pool, providing for the payment or recoupment of drilling and production costs; and excluding any spacing limitation with regard to offshore wells, except as may be established by said Board.

Be It Enacted by the Legislature of Alabama:

Section 1. That Section 9-17-12, Code of Ala. 1975, be, and the same is hereby, amended to read as follows:

“(a) Whether or not the total production from a pool is limited or prorated, no rule, regulation, or order of the Board shall be such in terms or effect: (1) that it shall be necessary at any time for the producer from or the owner of, a tract of land in the pool, or an interest associated therewith or derived therefrom, in order that he may obtain such tract’s just and equitable share or the just and equitable share of such interest of the production of such pool, as such share is set forth in this section, to drill and operate any well or wells on such tract in addition to such well or wells as can without waste produce such share, or (2) as to occasion net drainage from a tract or any interest associated therewith or derived therefrom unless there is drilled and operated upon such tract a well or wells in addition to such well or wells thereon as can without waste

produce such tract's just and equitable share or the just and equitable share of such interest, as set forth in this section, of the production of such pool.

"(b) For the prevention of waste, to protect and enforce the correlative rights of the owners and producers in a pool, and to avoid the augmenting and accumulation of risks arising from the drilling of an excessive number of wells, the Board shall, after a hearing, establish a drilling or production unit or units for each pool. A drilling or production unit, as contemplated in this subsection, means the maximum area which may be efficiently and economically drained by one well, and such unit shall constitute a developed unit as long as a well is located thereon which is capable of producing oil or gas in paying quantities, or until the Board shall determine and order otherwise after notice and hearing. It is provided, however, that the Board shall have no authority to fix a drilling or production unit in excess of either one hundred sixty (160) acres or one governmental quarter section plus ten percent (10%) tolerance for any pool deemed by the Board to be an oil reservoir or in excess of either six hundred forty (640) acres or one governmental section plus ten percent (10%) tolerance, for any pool deemed by the Board to be a gas reservoir, the said ten percent (10%) tolerance provided for so as to allow for irregular sections; provided however, that the Board may, at its discretion, after notice and hearing, establish drilling or production units for oil and gas in excess of the aforesaid limitations when it is affirmatively demonstrated that one well can efficiently and economically drain the proposed area and that a larger unit is justified because of technical, economic, environmental, or safety considerations, or other reasons deemed valid by the Board. To insure protection of coequal and correlative rights, the Board may, after notice and hearing, establish units for oil and gas pools by a quantum not to exceed thirty percent (30%) greater than the aforesaid limitations, provided such action is justified by sufficient technical data, indicating that such acreage or land in excess of the aforesaid maximum limitations is being drained or is in imminent danger of being drained and that the owners of such said excess acreage or lands that the persons owning any interest or combination of interests in such said excess acreage or lands cannot otherwise receive their just and equitable share of production from the pool being so drained; provided, however, in the event such excess lands or interests are integrated or pooled by order of the Board, then the provisions of Section 9-17-13 of this article shall be applicable to such owners of tracts or interests in such acreage or land in excess of the aforesaid maximum limitations so that the operator of the drilling or production unit in which such tracts or interests are

included shall have the right to charge against the interest of each other owner in the production from the wells drilled by such designated operator the actual expenditures required for such purpose, not in excess of what are reasonable, including a reasonable charge for supervision; and the operator shall have the right to receive the first production from such wells drilled by him thereon which otherwise would be delivered or paid to the other parties jointly interested in the drilling of the well so that the amount due by each of them for his share of the expense of drilling, equipping and operating the well may be paid to the operator of the well out of production, with the value of production calculated at the market price in the field at the time such production is received by the operator or placed to his credit. In the event of any dispute relative to such costs, the board shall determine the proper cost. Notwithstanding the provisions of this section, all persons entitled to share in the production of oil or gas from a tract or interest or tracts or interests in land may voluntarily agree to the creation or establishment of a drilling or production unit, or may authorize one or more of the persons entitled to share in such production to create or establish a drilling or production unit, containing as much or more acreage or land than drilling units established by the Board for the same pool, but not in excess of 160 acres or one governmental quarter section, plus ten percent (10%) tolerance, in the case of oil and 640 acres or one governmental section, plus ten percent (10%) tolerance, in the case of gas, subject to the aforementioned qualifications in this section and up to thirty percent (30%) greater, as provided hereinabove; a drilling unit so created or established shall, subject to the approval of the Board, be valid and binding for all purposes even though such drilling or production unit contains more acreage or land than the Board has included, or is authorized by this section to include a drilling or production unit established by it for the same pool; provided, however, the spacing limitations set forth herein shall not apply to offshore wells and the size and configuration of drilling and production units of offshore wells shall be as is determined proper by the Board.

“(c) Each well permitted to be drilled upon any drilling or production unit to a pool in a field with respect to which the Board has promulgated special rules shall be drilled at a location on the unit authorized by such special rules, and each well permitted to be drilled upon any drilling or production unit where the location thereof is not prescribed by special rules shall be drilled at a location on the unit authorized by rules of statewide application promulgated by the Board, with such exceptions as may be reasonably necessary, where it is shown, after notice and hearing, and the Board finds, that the unit is partly outside the pool, or, for

some other reason, that a well located in accordance with applicable rules would be nonproductive, would not be at the optimum position in such drilling or production unit for the most efficient and economic drainage of the unit, or where topographical conditions are such as to make the drilling at an authorized location on the unit unduly burdensome, or where an exception is necessary to prevent the confiscation of property. Whenever an exception is granted, the Board shall take such action as will offset any advantage which the person securing the exception may have over producers by reason of the drilling of the well as an exception, and so that drainage from developed units to the tract with respect to which the exception is granted will be prevented or minimized and the producer of the well drilled as an exception will be allowed to produce no more than his just and equitable share of the oil and gas in the pool, as such share is set forth in this section.

“(d) Subject to the reasonable requirements for prevention of waste and to the reasonable adjustment because of structural position, a producer’s just and equitable share of the oil and gas in the pool (also sometimes referred to as a tract’s just and equitable share) is that part of the authorized production for the pool (whether it be the total which could be produced without any restriction on the amount of production, or whether it be an amount less than that which the pool could produce if no restriction on amount were imposed) which is substantially in the proportion that the quantity of recoverable oil and gas in the developed area of his tract or interest or tracts or interests in the pool bear or bears to the recoverable oil and gas in the total developed area of the pool, insofar as these amounts can be practically ascertained; and to that end, the rules, regulations, permits, and orders of the Board shall be such as will prevent or minimize reasonably avoidable net drainage from each developed unit (that is, drainage which is not equalized by counterdrainage), and will give to each producer the opportunity to use his just and equitable share of the reservoir energy. In determining each producer’s just and equitable share of the authorized production for the pool, the Board is authorized to give due consideration to the productivity of the well or wells located thereon, as determined by flow tests, bottom hole pressure tests, or any other practical method of testing wells and producing structures, and to consider such other factors and geological or engineering tests and data as may be determined by the Supervisor to be pertinent or relevant to ascertaining each producer’s just and equitable share of the production and reservoir energy of the field or pool.”

Section 2. If any clause, sentence, paragraph, provision,

part, or section of this Act shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, provision, part, or section thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 9, 1979

Time: 11:00 A.M.

Act No. 79-761

H. 567—Owens

AN ACT

To amend § 28-3-112, Code of Alabama 1975, so that the 3% tax levied therein on manufacturers, distillers, producers or distributors of liquors doing business with the Alabama Alcoholic Beverage Control Board is repealed and to amend § 28-3-114, Code of Alabama 1975, to repeal the distribution of the proceeds of the said 3% tax and to make provisions for the distribution of filing fees and to increase said fees to \$500.00.

Be It Enacted by the Legislature of Alabama:

SECTION 1. That § 28-3-112, Code of Alabama 1975, be and the same is hereby amended to read as follows:

§ 28-3-112. Filing of application and statement with commissioner of revenue by manufacturer, distiller, producer, etc.; payment of filing fee; fees imposed by section cumulative.

(a) Every manufacturer, distiller, producer or distributor of liquors desiring to engage in business in this state or to do any business with the state or the Alabama alcoholic beverage control board or its successor in function shall file with the commissioner of the state department of revenue within the first 60 days of each calendar year a statement showing the total amount of its sales to the state or board during the preceding year ending December 31. The statement shall be verified by the affidavit of an authorized agent having knowledge of the facts and shall be accompanied by payment of a filing fee in the amount of \$500.00. If a manufacturer, distiller, producer or distributor of liquor who applies for a license has made no sales to the state or board during the preceding year, he shall pay a filing fee of \$500.00 and shall file a statement verified by the affidavit of an authorized agent having knowledge of the fact that no sales were made for said preceding year. Upon the payment

of the filing fee and the filing of the accompanying statement of sales, the commissioner of revenue shall issue a license to said applicant.

(b) The fees imposed by subsection (a) of this section are in addition to the permit fee required by subdivision (7) of subsection (a) of section 28-3-43 and all other permits, licenses, fees or taxes imposed by law.

(c) The commission of revenue shall not issue a license under subsection (a) of this section to any applicant until such time as said applicant has paid such sum of money as is due to be paid by said applicant to the commission of revenue for a privilege tax or license fee in accordance with the provisions of § 28-3-112, Code of Alabama 1975, for the calendar year 1979 or any preceding year in which said privilege tax or license fee was applicable.

SECTION 2. That § 28-3-114, Code of Alabama 1975, be and the same is hereby amended to read as follows:

§ 28-3-114. Disposition of filing fees. The revenue derived from filing fees paid under section 28-3-112 shall be paid into the state treasury to the credit of the beer tax and license fund of the Alabama alcoholic beverage control board.

SECTION 3. To further provide for and raise revenue for the State of Alabama; to levy an additional tax of 3% on the sale of spirituous or vinous liquors sold by the Alabama Alcoholic Beverage Control Board; to provide for the collection of said tax and the distribution thereof to the State Public Welfare Trust Fund and to the Special Mental Health Fund.

SECTION 4. Definitions.--The following words and phrases whenever they appear in this act shall have the meaning ascribed to them in this section.

(a) **BOARD.**--The Alabama Alcoholic Beverage Control Board.

(b) **GENERAL WELFARE PURPOSES.**--(1) the administration of public assistance as set out in sections 38-2-5 and 38-4-1, Code of Alabama, 1975; (2) services, including supplementation and supplementary services under the federal Social Security Act, to or on behalf of persons to whom such public assistance may be given under said section 38-4-1; (3) services to and on behalf of dependent, neglected or delinquent children; and (4) investigation and referral services to and on behalf of needy persons.

(c) **SELLING PRICE.**--The total mark up of spirituous or

vinous liquors sold by the Board, exclusive of the taxes heretofore levied thereon.

(d) **TABLE WINE.**--Means any vinous liquor containing not more than fourteen percent alcohol by volume.

(e) **WINE RETAILER.**--Means and includes a person, association, or corporation licensed by the Board under the provisions of acts heretofore enacted to engage in the retail sale of table wine to be consumed off the premises and who do not possess a state liquor license.

(f) **WINE WHOLESALE.**--Means and includes any person, association, or corporation licensed by the Board under the provisions of acts heretofore enacted to engage in the sale and distribution of table wine within those certain counties authorized by their licenses at wholesale only, to be sold for export or to licensees within this state authorized by their licenses to sell table wine.

SECTION 5. Levy and collection.--In addition to all other taxes of every kind now imposed by law and in addition to any marked-up price authorized or required by law, there is hereby levied and shall be collected a tax at the rate of 3% upon the selling price of all spirituous or vinous liquors sold by the Board. The board shall have the authority to examine the books and records of any wine wholesaler to determine the accuracy of any return required to be filed with the board.

The markup as currently established by the board on spirituous or vinous liquors shall not be reduced by the board for the purpose of absorbing the tax levied in this subsection, it being the intention of this provision that the said tax shall be passed on to the purchaser.

SECTION 6. Distribution of proceeds.--One half of the proceeds derived from the tax shall be deposited in the state treasury to the credit of the public welfare trust fund and shall be used for general welfare purposes and is hereby appropriated therefor. The remainder of such proceeds from the tax levied by this subsection shall be deposited in the state treasury to the credit of a special fund which shall be designated the Special Mental Health Fund and shall be used only for mental health purposes, including the prevention of mental illness, the care and treatment of the mentally ill and the mentally deficient and the acquisition, equipment, operation and maintenance of facilities for mental health purposes.

SECTION 7. Severability.--The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the parts which

remain.

SECTION 8. Effective Date.--This act shall become effective at midnight December 31, 1979, after its passage and approval by the Governor, or its otherwise becoming law.

Approved August 9, 1979

Time: 11:00 A.M.

Act No. 79-762

H. 759—Manley

AN ACT

To provide that any property owner shall have the authority, within certain limitations, to clean or dredge a stream or creek running through or onto his property.

Be It Enacted by the Legislature of Alabama:

Section 1. Any law, or any rule or regulation promulgated by a state agency, to the contrary notwithstanding, any property owner shall have the authority to clean out or dredge a creek or stream running through his property. However, such person shall only be authorized to maintain any stream or creek which runs through or onto his property and no other. Provided, further, that such cleaning or dredging shall not adversely affect the rights of property owners either upstream or downstream from the site of such cleaning or dredging work, nor shall it change the natural course of said stream.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 9, 1979

Time: 10:00 A.M.

Act No. 79-763

H. 987—Dial

AN ACT

To amend Section 16-13-144, Code of Alabama 1975 relating to penalties incurred by local boards of education who exceed their budget, so as to exempt said boards during years education money is prorated.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 16-13-144, Code of Alabama, 1975 is hereby amended to read as follows:

"§ 16-13-144. (a) No county or city board of education shall spend or obligate itself to spend more money in any fiscal year than the estimate of income available to that board of education for that year, plus balances on hand at the beginning of said fiscal year, which estimate must be approved by the state superintendent of education, if such excess expenditure or excess obligation to spend results in a deficit for that fiscal year, except as provided in section 16-13-45. The estimate of income shall include estimates of income from revenue receipts from all sources and estimates of nonrevenue receipts from all sources, but excluding all funds derived from loans other than loans obtained by the issuance of school warrants authorized by the laws of the state. Provided, however, this section shall not apply to the 1979-1980 or any subsequent fiscal year where there is proration of education funds going to local school boards. During years in which proration is declared, local city and county boards of education shall have authority to transfer expenditures between and among line item categories, provided that no funds shall be transferred from salaries to other line item categories.

"(b) If a county or city board of education in any fiscal year violates the provisions of this section, the state board of education shall reduce in the succeeding fiscal year the allotment from the minimum program fund to which such county or city board of education is otherwise entitled an amount equal to one fourth of said deficit.

"(c) If any county or city superintendent at any time makes a financial statement to his board of education or to the state superintendent of education in which said superintendent purposely misrepresents the amount of the deficit or obligations outstanding of his board of education, he shall be guilty of a misdemeanor and punishable by a fine of not less than \$100.00 and not more than \$500.00."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 9, 1979

Time: 11:00 A.M.

HOUSE JOINT RESOLUTION

Establishing Joint Interim Committee on Electricity

WHEREAS, it is deemed desirable (1) to assure the most efficient, economical and orderly rendition of electric service within the State of Alabama, (2) to minimize the duplication of electric service, (3) to encourage the extension and location of electric power delivery facilities in a manner most compatible with the state's economic development and enhancement of its physical environment and (4) to preserve the economic values inherent in electric power delivery facilities heretofore and hereafter lawfully constructed by electric power suppliers; and

WHEREAS, it is the recognized policy of this state to avoid wasteful uneconomic duplication of electric facilities, the cost of which must be borne by the customer; and

WHEREAS, it is deemed appropriate and desirable that the State establish and implement a procedure whereby territorial and/or duplication problems in the area of electric power distribution can be solved in a manner that is fair and equitable to the three principal distributors of electricity, vis, investor owned electric utilities, rural electric cooperatives and municipal electric systems; and

WHEREAS, it is the desire of this Legislature to establish a Joint Interim Committee to work with appropriate segments of the electric power industry in the state in an attempt to devise fair and equitable legislation protective of the legitimate purposes and economic considerations affecting each electric power supplier;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, that a Joint Interim Committee shall be established and conducted as follows:

1. The Committee shall consist of three members of the House of Representatives and three members of the Senate. The three members of the Committee from the House shall be appointed by the Speaker of the House and the three members from the Senate shall be appointed by the Lieutenant Governor. The members of the Committee shall choose a chairman.

2. The Committee shall have authority to employ research assistance. The Clerk of the House and the Secretary of the Senate shall provide secretarial assistance. The members of the Committee shall receive the same pay, per diem and travel expenses that is received when the Legislature is in session;

provided, however, that the Committee shall not meet a total of more than twelve days.

3. The Committee shall consult with appropriate representatives of investor-owned electric utilities, rural electric cooperatives and municipal electric systems outside the Tennessee Valley Authority service area and shall attempt, in working with them, to devise proposed legislation consistent with the recitals contained in the foregoing WHEREAS clauses. The Committee shall only propose legislation if it is able to devise fair and equitable legislation satisfactory to investor-owned utilities, electric cooperatives and municipal electric systems operating in the State. If the Committee is unable to devise legislation satisfactory to these three industry segments, it shall propose no legislation. The Committee shall report any suggested legislation it may devise to the Legislature no later than February 1, 1980.

4. The Committee shall be funded from moneys appropriated to the use of the Legislature but its sole expenses shall not exceed the amount of \$7,000.

BE IT FURTHER RESOLVED that copies of this Resolution be provided to the Secretary of the Senate and the Clerk of the House of Representatives.

Approved August 9, 1979

Time: 10:00 A.M.

Act No. 79-765

H.J.R. 319—Riddick

HOUSE JOINT RESOLUTION

COMMENDING THE KNIGHTS OF COLUMBUS FOR THEIR EFFORTS ON BEHALF OF ALABAMA'S MENTALLY RETARDED CITIZENS AND DESIGNATING OCTOBER 12, 13 AND 14, 1979 AS "KNIGHTS OF COLUMBUS TOOTSIE ROLL DRIVE DAYS" IN ALABAMA.

WHEREAS, the Knights of Columbus is a fraternal organization of Catholic men which was founded in 1882 by Father Michael McGivney to practice the principles of charity, unity, fraternity and patriotism; and

WHEREAS, the Knights of Columbus will practice the principles of their order by conducting their second annual Tootsie Roll Drive to aid Alabama's mentally retarded citizens on Friday, Saturday and Sunday, October 12, 13 and 14, 1979; and

WHEREAS, the Alabama State Council of the Knights of Columbus will be ably assisted in this statewide drive by the Alabama Association for Retarded Citizens and many other organizations and volunteers interested in Alabama's mentally retarded citizens; and

WHEREAS, the funds collected from this Tootsie Roll Drive will be distributed at the state and community levels to assist the organizations and institutions concerned with improving the quality of life of Alabama's mentally retarded citizens; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly commend the Knights of Columbus for their efforts on behalf of Alabama's mentally retarded citizens and, in unanimous endorsement of these efforts, do hereby designate October 12, 13 and 14, 1979, as "Knights of Columbus Tootsie Roll Drive Days" in Alabama.

Approved August 9, 1979

Time: 10:00 A.M.

Act No. 79-766

H.J.R. 320—Minus

HOUSE JOINT RESOLUTION

COMMENDING GENERAL TAYLOR HARDIN UPON HIS RETIREMENT AS COMMISSIONER OF THE ALABAMA DEPARTMENT OF MENTAL HEALTH.

WHEREAS, having learned of the announced retirement of General Taylor Hardin as Director of the Mental Health Department of the State of Alabama, the Legislature of Alabama desires to pay tribute to a distinguished Alabamian; and

WHEREAS, a native of Choctaw County, Alabama, Taylor Hardin was reared in neighboring Sumter County and is a graduate of the University of Alabama with a bachelor's degree in journalism awarded in 1940; he also is a graduate of the University's School of Law having earned his degree in 1942; and

WHEREAS, discharged with the rank of Lieutenant Colonel, following four years of service in the United States Army during World War II, his distinguished military career continued with the Alabama National Guard from which he retired in 1975 with the rank of Commanding General and as the only Alabama Guardsman

ever to attain the rank of full General; he also served three terms as president of the Alabama National Guard Association and in 1974, Alabama's Fort Taylor Hardin was named in his honor; and

WHEREAS, Taylor Hardin's state service began in 1946 and, as an assistant attorney general, his responsibilities included chief of the Criminal Division in the Attorney General's Office, legal counsel to the Department of Examiners of Public Accounts and chief of the Legal Division in the Department of Finance; named State Finance Director by Governor George C. Wallace, he served in that capacity until 1974 at which time he was appointed mental health commissioner; and

WHEREAS, under his direction, great strides have been made in the area of mental health with five new facilities opened during his tenure and during which time our state's institution population has declined from some 11,000 to less than 4,000 patients; and

WHEREAS, during Commissioner Hardin's career in public service, he has been honored on numerous occasions both by the federal government and by the State of Alabama, most recently as Alabama Administrator of the Year for 1979 and by election to the Alabama Academy of Honor; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly commend General Taylor Hardin on a most distinguished career in public service, and extend our warm best wishes for a long and happy retirement.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to General Hardin that he may be aware of our high commendations for achievement.

Approved August 9, 1979

Time: 10:00 A.M.

Act No. 79-767

H. 3—Venable

AN ACT

To amend Section 37-1-3, Code of Alabama 1975, so as to provide that the members of the Public Service Commission shall take office the day after the general election at which they were elected.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 37-1-3, Code of Alabama 1975, is hereby amended to read as follows:

“§ 37-1-3. (a) The terms of office of the commissioners shall

be for four years; at the election to be held in the state on the first Tuesday after the first Monday in November, 1940, and every four years thereafter, a president of said commission shall be elected by the qualified electors of this state; and at the election to be held in the state on the first Tuesday after the first Monday in November, 1942, and every four years thereafter, two associates, who, with the president, shall constitute said commission, shall be elected by the qualified electors of the state. The result of such election shall be ascertained and declared by the same authority and in the same manner as are the results of election for chief justice and associate justices of the supreme court.

“(b) The persons elected to fill said offices shall enter upon the discharge of their respective duties on the day after the general election at which they are elected, and expire on the day after the general election held in the fourth year after their election.

“(c) If any vacancy should occur in any one of said offices, caused by death, resignation or otherwise, the same shall be filled by appointment by the governor, the appointee holding for the balance of the unexpired term. If any person elected to the office of public service commissioner shall fail or refuse for 30 days to qualify, such failure or refusal shall be held to create a vacancy in the office, which vacancy shall be filled by appointment by the governor, the appointee to hold for the term for which the person so failing or refusing to qualify was elected.

“(d) No two of said public service commissioners shall be elected or appointed from the same congressional district. But this section shall not disqualify or render ineligible for election or appointment any person holding such office on the date of enactment or effective date of any law redistricting the state for election of representatives in congress.”

Section 2. The provisions of this Act shall not diminish the current term of any member elected to the Public Service Commission.

Section 3. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 9, 1979

Time: 11:00 A.M.

AN ACT

To amend Section 11-50-313 of the Code of Alabama 1975, relating to boards of directors of public corporations created by municipalities for the purpose of owning, operating, and financing water, sewer, gas, and electric systems, so as to further provide for payment of compensation to the chairman and other members of the board of any such public corporation created in any city located in Jefferson County.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 11-50-313 of the Code of Alabama 1975 is hereby amended to read as follows:

“§ 11-50-313. Each corporation formed or the certificate of incorporation of which is amended under this article shall have a board of directors which shall constitute the governing body of the corporation, which board shall consist of three members.

“No fee shall be paid to any director for services rendered with respect to a sanitary sewer system. In any instance where the system or systems owned and operated by the corporation are any one or more of a water system, a gas system and an electric system, the chairman of the board of directors may, at the discretion of the board of directors, be paid a director's fee in an amount not exceeding \$15.00 each month for one such system and \$10.00 each month for each additional system, and each member of the board of directors other than the chairman may be paid a director's fee in an amount not exceeding \$10.00 each month for each such system; provided, that where the municipality with respect to which the corporation was primarily organized has less than 5,000 inhabitants according to the most recent official census, the maximum total amount of director's fees which may be paid to the chairman of its board of directors shall not exceed \$25.00 during any month, and the maximum total amount of director's fees which may be paid to any other member of the board of directors shall not exceed \$20.00 during any month. In all cities having populations of not less than 6,500 nor more than 8,500 according to the most recent federal decennial census, the members of the board of directors, including the chairman, may each be paid a director's fee in an amount not exceeding \$25.00 each month. In all cities having populations of not less than 23,000 nor more than 27,000 according to the most recent federal decennial census, the chairman of the board of directors, at the discretion of such board, may be paid a director's fee in an amount not exceeding \$125.00 each month, and each member of the board other than the chairman may be paid a director's fee in an amount not exceeding \$100.00 each month. In all cities located in Jefferson County, Alabama, the chairman of the

board of directors, at the discretion of such board, may be paid a director's fee in an amount not exceeding \$450.00 each month for one such system and \$50.00 per month for each additional system; and each member of the board other than the chairman may be paid a director's fee in an amount not exceeding \$400.00 each month for one such system and \$40.00 per month for each additional system. All members of the board of directors of any corporation organized under the provisions of this article shall be reimbursed for actual expenses incurred in and about the performance of their duties under this article.

"Any officer of the municipality shall be eligible for appointment and may serve as a member of the board of directors for the term for which he is appointed or during his tenure as a municipal officer, whichever expires first, but he shall not receive a fee for his services; provided, however, that at no time shall the board consist of more than two officers of the municipality. The directors of the corporation shall be elected by the governing body of the municipality, and they shall be so elected that they shall hold office for staggered terms. The first term of office of one director shall be two years, of another director shall be four years and of a third director shall be six years, as shall be designated at the time of their election, and thereafter the term of office of each director shall be six years; provided, however, that the governing body of any municipality which has heretofore or hereafter authorized the creation of a corporation as provided in this article may, at its option, increase the board of directors from three to five members to serve according to all the conditions and terms set forth in this article. In the event the governing body elects to increase such board of directors from three to five members, one member added to the board shall be appointed for a term of four years and the remaining member for a term of six years, and thereafter the term of each such director shall be six years; provided, that at no time shall such board consist of more than three officers of the municipality; provided further, that any officer of the municipality appointed to serve as a member of the board of directors shall serve for the term for which he is appointed or during his tenure as a municipal officer, whichever expires first."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 9, 1979

Time: 10:00 A.M.

Act No. 79-769

H. 717—Whatley, Ward, Turnham

AN ACT

Relating to Lee County; providing for the payment of an additional expense allowance to the chairman and members of the county commission or like governing body of Lee County.

Be It Enacted by the Legislature of Alabama:

Section 1. The chairman and each member of the county commission or like governing body of Lee County shall be entitled to an allowance for expenses payable from any funds in the county treasury not otherwise appropriated in the amount of \$300.00 per month. The expense allowance herein provided for shall be in addition to all other compensation and allowances provided members of the county governing body by general, special or local laws.

Section 2. All laws or parts of laws which conflict with this act are repealed.

Section 3. This act shall become effective on the first day of the month next following the date of its enactment.

Approved August 9, 1979

Time: 10:00 A.M.

Act No. 79-770

H. 753—Reed

AN ACT

To provide for two clerks in the office of the tax assessor of Bullock County, Alabama; and to fix the method and basis of their employment and compensation.

Be It Enacted by the Legislature of Alabama:

Section 1. The tax assessor of Bullock County is hereby authorized, if in his discretion it is necessary to the proper functioning of his office, to nominate persons for the positions of chief clerk and assistant clerk. The following persons shall constitute an appointing body for the actual appointment of said clerks: The senator from Bullock County, the two representatives of Bullock County, the tax assessor, the chairman of the county commission, and two associate commissioners selected by the chairman. A majority vote of the appointing body shall be necessary for any appointments hereby authorized. The clerks herein authorized shall serve at the will and pleasure of the tax assessor of Bullock County.

Section 2. The salary of the chief clerk shall be \$8,400.00 per year and the salary of the assistant clerk shall be \$7,400.00 per year, each to be paid out of the general fund of Bullock County in equal monthly installments; provided that the county commission shall have the discretion of paying said salaries from whatever funds or sources as may be available for such purposes.

Section 3. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 9, 1979

Time: 11:00 A.M.

Act No. 79-771

H. 1003—Cabaniss, Harrison, Seibels,
Waggoner, Bennett, Tucker

AN ACT

TO AMEND SECTION 4.04 OF ACT NO. 452, REGULAR SESSION OF THE LEGISLATURE OF ALABAMA OF 1955, APPROVED SEPTEMBER 9, 1955 (ACTS OF 1955, PAGE 1004), AS AMENDED, PROVIDING A MAYOR-COUNCIL FORM OF GOVERNMENT FOR CITIES HAVING A POPULATION OF 300,000 INHABITANTS OR MORE ACCORDING TO THE LAST OR ANY SUBSEQUENT FEDERAL CENSUS, TO PROVIDE THE METHOD FOR DETERMINING THE ANNUAL SALARY TO BE PAID TO THE MAYOR OF SUCH CITY.

Be It Enacted by the Legislature of Alabama:

Section 1. That Section 4.04 of Act No. 452, Regular Session of the Legislature of Alabama of 1955, approved September 9, 1955 (Acts of 1955, Page 1004), as amended, providing a Mayor-Council form of government for cities having a population of 300,000 inhabitants or more according to the last or any subsequent Federal Census, be and Section 4.04 is hereby amended to read as follows:

"4.04. Compensation - The Mayor shall receive an annual salary payable in monthly installments at the end of each month, said installments to be paid at the same rate for any portion of the month during which the Mayor shall hold the office at the rate hereinafter provided. The annual salary which the Mayor shall receive shall be either (1) an amount equal to ten (10%) percent more

than the highest annual rate of pay established by any Civil Service or Merit System applicable to the City for any employment position authorized for the City under such Civil Service or Merit System determined as of the date of the beginning of the Mayor's term of office, if there be a Civil Service or Merit System applicable to the City; or (2) an amount equal to ten (10%) percent more than the annual rate of pay being paid to the highest paid employee of such City as of the date of the beginning of the Mayor's term of office, if there be no Civil Service or Merit System applicable to the City."

Provided, however, under neither formula will said salary exceed fifty-two thousand five hundred (52,500.00) dollars annually.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor or its otherwise becoming law but shall not be applicable to the compensation of the mayor of any city affected hereby until the commencement of the next term of office of such mayor next following the date this act becomes effective.

Approved August 9, 1979

Time: 11:00 A.M.

Act No. 79-772

S.J.R. 103—Glass

SENATE JOINT RESOLUTION

TO ESTABLISH AN INTERIM COMMITTEE TO STUDY THE PURCHASE OF THE WEST END OF DAUPHIN ISLAND AS A STATE PARK.

WHEREAS, there is a great need to study the purchase of the West End of Dauphin Island to be used as a state park.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there should be an Interim Committee to study the feasibility, need and method of financing the purchase of the West End of Dauphin Island as a park for the State of Alabama. The committee shall be composed of fourteen persons: six members appointed by the President of the Senate, six members appointed by the Speaker of the House of Representatives, one member to be appointed by the Governor, and one member to be appointed by the Commissioner of Conservation and Natural Resources. The legislative members of the committee shall receive their regular legislative compensation to be paid from funds appropriated to the Legislature. The total compensation paid to the members of this committee shall not

exceed \$7,000. The final report of the committee, along with findings and recommendations shall be submitted to the Governor no later than the fifth legislative day of the 1980 Regular Session. Upon the submission of the final report the committee shall stand dissolved.

Approved August 9, 1979

Time: 11:00 A.M.

Act No. 79-773

S. 41—Mitchem, Miller and Kirkland
AN ACT

Relating to cotton gins and the regulations thereof. To amend Section 2-19-61 of Title 2 of the Code of Alabama 1975 relating to the annual permit fee required for the operation of a cotton gin and prescribing the amount of such permit fee.

Be It Enacted by the Legislature of Alabama:

Section 1. § 2-19-61 of the Code of Alabama 1975 is hereby amended to read as follows:

“§ 2-19-61. The proprietor, lessee or manager of any cotton gin shall procure on or before July 1 of each year from the commissioner a permit to do business as a cotton ginner, the application for which shall be made upon forms to be furnished by the commissioner. The fee for the annual permit shall be \$20.00, payable to the commissioner of agriculture and industries for deposit to the credit of the agricultural fund, which shall accompany the application for the permit. If such permit fee is not paid within 45 days from the due date, a delinquent penalty of 15 per cent shall be added.

“In the issuance of a permit the commissioner shall consider the responsibility and qualifications, as well as the capacity of the person or persons or corporation to do such ginning business, so far as to afford all reasonable facilities, conveniences and services to the public, and shall have the power and authority to require such facilities, conveniences and services to be afforded the public before a permit is granted.

“The permit required under this section shall be obtained and the fee therefor paid by any agricultural cooperative association engaged in the operation of a cotton gin, and the exemption allowed such organizations pursuant to section 2-10-105 or any other exemption statute shall not relieve such cooperative organizations from the requirements of this section.”

Section 2. This Act shall become effective on July 1, 1979.

Approved August 9, 1979

Time: 11:00 A.M.

Act No. 79-774

S. 45—Mitchem and Kirkland

AN ACT

To amend Sections 2-15-40, 2-15-60 and 2-15-130, Code of Alabama 1975 so as to further define the term "livestock."

Be It Enacted by the Legislature of Alabama:

Section 1. Section 2-15-40, Code of Alabama 1975 is hereby amended to read as follows:

"§ 2-15-40. Every person engaged in the business of buying cattle, sheep, goats, hogs, horses, mules, asses, for resale or slaughter or who engages in the business of transporting, hauling or driving cattle, sheep, goats, hogs, horses, mules, asses along any public road or highway of Alabama for resale, market or slaughter or who engages in the business of slaughtering such livestock shall be deemed to be a dealer for the purposes of this article."

Section 2. Section 2-15-60, Code of Alabama 1975 is hereby amended to read as follows:

"§ 2-15-60. When used in this division, the following terms shall have the following meanings, respectively, unless the context clearly indicates a different meaning:

"(1) COMMISSIONER. The commissioner of agriculture and industries of the state of Alabama.

"(2) BOARD. The board of agriculture and industries of the state of Alabama.

"(3) PERSON. Any individual, partnership, corporation, association or other legal entity or organization.

"(4) DEPARTMENT. The department of agriculture and industries of the state of Alabama.

"(5) LIVESTOCK. Cattle, swine, sheep, goats, horses, mules, asses.

"(6) LIVESTOCK MARKET. A place, concentration or collection point or other public or private place where a person shall assemble livestock for either public or private sale by him and such service or the cost or expense thereof is to be compensated for by the owner, on a commission basis or otherwise, or where such person

purchases livestock for resale. Such term shall not include:

“a. Any place, other than at a permanently established livestock market, used solely for the dispersal sale of the livestock of a farmer, dairyman, livestock breeder or feeder who is discontinuing said business and no other livestock is there sold or offered for sale;

“b. Any farm, ranch or place where livestock either raised or kept thereon for the grazing season or for fattening is sold and no other livestock is brought there for sale or offered for sale;

“c. The premises of any butcher, packer or processor who receives animals exclusively for immediate slaughter;

“d. The premises of any person engaged in the raising of livestock for breeding purposes only who limits his sale to animals of his own production;

“e. Any place where a breeder or an association of breeders of livestock of any class assemble and offer for sale and sell under his or their own management any livestock when such breeder or association of breeders shall assume all responsibility of such sale and the title of livestock sold; and

“f. Any place, other than at a permanently established livestock market, used solely for livestock sales of 4-H clubs, Future Farmers of America and other youth organizations of like kind.”

Section 3. Section 2-15-131, Code of Alabama 1975 is hereby amended to read as follows:

“§ 2-15-131. When used in this article, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

“(1) COMMISSIONER. The commissioner of agriculture and industries of the state of Alabama.

“(2) BOARD. The board of agriculture and industries of the state of Alabama.

“(3) DEPARTMENT. The department of agriculture and industries of the state of Alabama.

“(4) PERSON. Any individual, partnership, corporation, association or other business unit.

“(5) DEALER. Any person engaged in the business of buying livestock in the state of Alabama for resale, exchange or slaughter and meat packing purposes, either on his own account or

as agent for others on a commission basis or otherwise.

“(6) LIVESTOCK. Cattle, swine, sheep, goats, horses, mules, asses.”

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 9, 1979

Time: 11:00 A.M.

Act No. 79-775

S. 57—Pearson

AN ACT

To amend Section 11-81-16 of the Code of Alabama 1975, which authorizes pledges of certain tax proceeds and other revenues for payment of principal of and interest on bonds of a county or municipality, so as to clarify the said section by adding revenues from airport facilities to the classes of utility revenues that may be so pledged.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 11-81-16 of the Code of Alabama 1975 shall be, and hereby is, amended to read as follows:

“§ 11-81-16.

In any case in which a county or municipality may hereafter issue any bonds which are general obligations of such county or municipality, there may be pledged to the payment of the principal of and interest on such bonds all or any part or portion of funds which may be derived from any one or more of the following sources and which shall not be required for the purpose of making good any valid pledge thereof theretofore made or which are not required by the Constitution to be devoted to other purposes and which such county or municipality may at any time be authorized to levy, collect, or receive:

- (1) The proceeds of any property tax;
- (2) The proceeds of any license, privilege or occupational tax, excepting such license taxes as may be levied by municipalities for conducting business outside their corporate limits;
- (3) The portion of any license, privilege or occupational tax levied under any law heretofore or hereafter enacted which may be apportioned and paid to such municipality or county; and
- (4) The revenues of any waterworks, sewage system, electric

light and power plant, airport, or any other utility maintained and operated by such municipality or county.

The provisions making such pledge shall have the force of contract between the county or municipality and the holders of such bonds. No property tax thus pledged and no rate or charge for the services rendered by such utility shall be reduced or diminished to such an extent that the tax or revenue pledged will not be sufficient to meet the interest and sinking fund or principal requirements of such bonds. Any tax or revenue so pledged shall constitute a trust fund or funds which shall be impressed with a lien in favor of the holders of the bonds to the payment of which such funds are pledged. In the event such county or municipality should pledge any tax or revenues as authorized by this section, the ordinance or resolution authorizing the issuance of such bonds may provide that such county or municipality shall not be required to levy the tax provided for in section 11-81-15, but shall be required to levy only such property taxes, license, privilege or occupational taxes as may be so pledged under authority of this section. Notwithstanding any contrary provisions of any general or local law, the ordinance or resolution authorizing the issuance of any such bonds may contain provisions or covenants whereby, so long as any such bonds shall be outstanding, any license, privilege or occupational tax thus pledged shall be levied and collected in each year without reduction in the aggregate annual amount of such license, privilege or occupational taxes so pledged."

Section 2. This act shall become effective upon being signed by the Governor or upon its otherwise or upon its otherwise becoming law.

Approved August 9, 1979

Time: 9:00 A.M.

Act No. 79-776

S. 557—Smith, McDonald, and Lemaster

AN ACT

To provide for the crime of sexual abuse in the first degree; and to provide penalties.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) A person commits the crime of sexual abuse in the first degree if:

- (1) He subjects another person to sexual contact by forcible

compulsion; or

(2) He subjects another person to sex contact who is incapable of consent by reason of being physically helpless or mentally incapacitated; or

(3) He, being 16 years old or older, subjects another person to sexual contact who is less than 12 years old.

(b) The following definitions apply in this statute:

(1) **Sexual Contact.** Any touching of the sexual or other intimate parts of a person not married to the actor, done for the purpose of gratifying the sexual desire of either party.

(2) **Mentally Incapacitated.** Such term means that a person is rendered temporarily incapable of appraising or controlling his conduct owing to the influence of a narcotic or intoxicating substance administered to him without his consent, or to any other incapacitating act committed upon him without his consent.

(3) **Physically Helpless.** Such term means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

(4) **Forceful Compulsion.** Physical force that overcomes earnest resistance; or a threat, express or implied, that places a person in fear of immediate death or serious physical injury to himself or another person.

(c) Sexual abuse in the first degree is a felony. Any person convicted of sexual abuse in the first degree shall be sentenced for a definite term of imprisonment, which imprisonment includes hard labor, for not more than ten years or less than one year and one day.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 9, 1979

Time: 11:00 A.M.

To authorize and make provisions for the incorporation in any Class III municipality of an Authority as a public corporation for the purpose of providing public transportation service in such county, upon the filing of an application with, and the authorization of such incorporation by, the governing body of any such municipality within which any such Authority proposes to furnish any such service; to provide for the amendment of the certificate of incorporation of any such Authority for certain purposes at any time, upon the authorization of each such amendment by the governing body of the municipality by which its incorporation was authorized; to provide for the election and compensation of directors of any such Authority; to provide for the powers, authorities and duties of any such Authority and its board of directors; to authorize any such Authority to acquire, construct, operate, improve and finance one or more transit systems; to confer on any such Authority the power of eminent domain; to authorize any such Authority to expend funds for the purchase or lease of materials, equipment, supplies or other personal property involving less than \$2,000 without compliance with the provisions of Act No. 217 (1967 Special Session), as amended, that might otherwise be applicable; to employ officers, employees and agents without regard to any provisions of Act No. 217 (1967 Special Session), as amended; to make provisions respecting the establishment and revision of charges for public transportation service rendered by it; to provide for the issuance by any such Authority, with prior approval of the municipal governing body, for any of its corporate purposes of interest-bearing revenue bonds and other interest-bearing revenue securities, payable solely out of either or both of the following: (a) any tax proceeds appropriated, allocated or made payable (in whole or in part) to such Authority by or pursuant to any act of the legislature of this state or by or pursuant to any ordinance, resolution or order of any county in which the Authority is authorized to furnish transportation service or any municipality located in such county and (b) the revenues of any one or more of the transit systems of such Authority, without regard to the system or systems with respect to which such revenue securities may have been issued; to provide that such revenue securities shall constitute negotiable instruments; to provide that such revenue securities may be secured by a pledge of the revenues from which they are payable, by contracts binding any such Authority for the proper application of its revenues and of the proceeds of such revenue securities, and by a non-foreclosable mortgage and deed of trust or statutory mortgage lien on the transit system out of the revenues from which sum securities are payable, and to provide that any revenue securities of the Authority may be issued under a trust indenture; to provide for constructive notice of any such statutory mortgage lien; to authorize and make provisions respecting the assumption by any such Authority of obligations respecting any transit system, or parts thereof, acquired by the Authority; to provide for the use of the proceeds of any revenue securities issued by an Authority; to provide for the refunding, by the issuance of revenue securities of an Authority, of revenue securities theretofore issued or obligations theretofore assumed by it; to provide that revenue securities issued and contracts entered into by any such Authority pursuant to this Act shall not constitute or create a debt of the state or of any county, municipality or political subdivision of the state; to provide that any county, municipality, other political subdivision, public corporation, or agency or instrumentality of this state may aid and cooperate with, lend or donate money to, perform services for the benefit of, and, without the necessity of an election and with or without consideration, transfer any transit system or other property to any such Authority; to exempt the property and income of any such Authority, and all securities issued by any such Authority and the income from such securities, and conveyances, leases, and mortgages and deeds of trust to which such Authority is a party from all taxation in the state, to exempt every such Authority from all taxes, including license and excise taxes, levied by any county, municipality, or other political subdivision of the state, and to exempt such Authority from payment of certain charges to Judges of Probate; to provide that each such Authority shall be

exempt from regulation and supervision by the Public Service Commission and the State Department of Finance; to provide for the use of public roads in the state by any such Authority; to require the board of directors of any such authority to adopt an annual budget and to cause annual audits of the books and records of such authority to be made; and to provide for the dissolution of any such Authority and the disposition of its property.

Be It Enacted by the Legislature of Alabama:

Section 1. The Legislature has found and determined and does hereby declare that in Class III municipalities the following conditions exist: (a) that the constant growth of private vehicular traffic in such counties in which such municipalities are located is placing excessive burdens upon the road systems and parking facilities, especially in commercial and industrial districts and in areas of high population density; (b) that the continued economic growth of such municipalities and the general health and welfare of the citizens of such counties require the availability of public facilities for mass transportation; and (c) that it is necessary and desirable and in the best interests of the citizens of such municipalities that provisions be made for the establishment in such counties of public corporations to provide public transportation service. The legislature does hereby further declare its intention, by the passage of this Act, to promote public mass transportation in such municipalities through the authorization of public corporations, as agencies of the State of Alabama, with the powers conferred by this Act.

Section 2. The following words and phrases used in this Act, and others evidently intended as the equivalent thereof, shall, in the absence of clear implication herein otherwise, be given the following respective interpretations herein:

“Applicant” means a natural person who files a written application with the governing body of any municipality to which this Act applies all in accordance with the provisions of Section 4 hereof.

“Authority” means a public corporation organized pursuant to the provisions of this Act.

“Authorizing Municipality” means any municipality the governing body of which shall have adopted an authorizing resolution.

“Authorizing resolution” means a resolution, adopted by the governing body of any municipality to which this Act applies all in accordance with the provisions of Section 4 hereof, that authorizes the incorporation of an Authority.

“Board” means the board of directors of an Authority.

“Bonds” means and shall include bonds, notes and certificates representing an obligation to pay money.

“Chief executive officer” means, with respect to any municipality, the mayor, president of the board of commissioners or other chief executive officer of such municipality.

“County” means any county in the state.

“Director” means a member of the board of directors of the Authority.

“Governing body” means court of county commissioners, board of revenue, or other like governing body with respect to a municipality, its city or town council, board of commissioners, or other like governing body.

“Incorporators” means the persons forming a public corporation organized pursuant to the provisions of this Act.

“Municipality” means an incorporated city or town of the state.

“Person”, unless limited to a natural person by the context in which it is used, includes a public or private corporation, a municipality, a county, or an agency, department or instrumentality of the state or of a county or municipality.

“Principal office” means the place at which the certificate of incorporation and amendments thereto, the by-laws, and the minutes of proceedings of the board of an Authority are kept.

“Property” means and includes real and personal property, and interests therein.

“Public transportation service” means and includes all service involved in the transportation of passengers for hire by means of street railway, elevated railway, motor vehicles or other means of conveyance generally associated with or developed for mass surface or subsurface transportation of the public, but does not include any service involved in transportation by taxicab, airport limousine or industrial bus.

“Transit system” means and includes land, plants, systems, facilities, buildings, garages, vehicles of all types, rails, lines and any combination of any thereof, used or useful or capable of future use in furnishing public transportation service, and all other property deemed necessary or desirable by an Authority for use in furnishing public transportation service.

"State" means the State of Alabama.

Section 3. The following provisions shall be applied wherever appropriate herein:

"Herein," "hereby," "hereunder," "hereof," and other equivalent words refer to this Act as an entirety and not solely to the particular section or portion thereof in which any such word is used.

The definitions set forth in Section 2 hereof shall be deemed to include both singular and plural and to cover all genders.

Section 4. A public corporation may be organized pursuant to the provisions of this Act in any Class III municipality. In order to incorporate such a public corporation, any number of natural persons, not less than three, shall first file a written application with the governing body of the municipality which application shall:

(1) Contain a statement that the Authority proposes to render public transportation service in such county;

(2) State the proposed location of the principal office of the Authority, which shall be within the municipality where such application is filed;

(3) State that each of the applicants is a duly qualified elector of the municipality where such application is filed; and

(4) Request that such governing body adopt a resolution declaring that it is wise, expedient, and necessary that the proposed Authority be formed and authorizing the applicants to proceed to form the proposed Authority by the filing for record of a certificate of incorporation in accordance with the provisions of Section 5 hereof.

Such applications shall be accompanied by such supporting documents or evidence as the applicants may consider appropriate. As promptly as may be practicable after the filing of the application with them in accordance with the provisions of this section, the governing body of the municipality with which the application was filed shall review the contents of the application and shall adopt resolutions either (a) denying the application or (b) declaring that it is wise, expedient, and necessary that the proposed Authority be formed and authorizing the applicants to proceed to form the proposed Authority by the filing for record of a certificate of incorporation in accordance with the provisions of Section 5 hereof, provided, however, that the contents of the certificate of incorporation shall be approved by the municipal governing body. Each governing body with which an application is filed shall also

cause a copy of the application to be spread upon or otherwise made a part of the minutes of the meeting of such governing body at which final action upon said application is taken.

Section 5. Within forty (40) days following the adoption of an authorizing resolution by the governing body the applicants shall proceed to incorporate an Authority by filing for record in the office of the Judge of Probate of the county in which the municipality is located, a certificate of incorporation which shall comply in form and substance with the requirements of this section and which shall be in the form and executed in the manner herein provided.

The certificate of incorporation of the Authority shall state:

(1) The names of the persons forming the Authority, and that each of them is a duly qualified elector of the authorizing municipality;

(2) The name of the Authority (which shall be "..... Transit Authority", with the insertion of the name of the authorizing municipality);

(3) The period for the duration of the Authority (if the duration is to be perpetual, subject to the provisions of Section 20 hereof, that fact shall be stated);

(4) The name of the authorizing municipality, together with the date on which the governing bodies thereof adopted authorizing resolutions;

(5) The location of the principal office of the Authority, which shall be in the authorizing municipality;

(6) That the Authority is organized pursuant to the provisions of this Act for the purpose of supplying public transportation service in the authorizing municipality and in the county and in any other municipality in the county in which the authorizing municipality is located and in any other county in the state; and

(7) Any other matter relating to the Authority that the incorporators or the authorizing municipality may choose to insert and that are not inconsistent with this Act or with the laws of the state.

The certificate of incorporation shall be signed and acknowledged by the incorporators before an officer authorized by the laws of the state to take acknowledgements to deeds. When the certificate of incorporation is filed for record, there shall be attached to it (a) a copy of the application as filed with the governing body of the authorizing municipality in accordance with the

provisions of Section 4 hereof, (b) a certified copy of the authorizing resolution adopted by the governing body of the authorizing municipality, and (c) a certificate by the Secretary of State that the name proposed for the Authority is not identical to that of any other corporation organized under the laws of the state or so nearly similar thereto as to lead to confusion and uncertainty. Upon the filing for record of the said certificate of incorporation and the documents required by the preceding sentence to be attached thereto, the Authority shall come into existence and shall constitute a public corporation under the name set forth in said certificate of incorporation. The Judge of Probate shall thereupon send a notice to the Secretary of State that the certificate of incorporation of the Authority has been filed for record.

Section 6. The certificate of incorporation of any Authority incorporated under the provisions of this Act may at any time and from time to time be amended in the manner provided in this section, provided that the contents of any amendment are first approved by the municipal governing body which shall have the authority to recommend requirements with respect to either any amendment or the original certificate of incorporation. The board of directors of the Authority shall first adopt a resolution proposing an amendment to the certificate of incorporation which shall be set forth in full in the said resolution and which amendment may include any matters which might have been included in the original certificate of incorporation.

After the adoption by the board of a resolution proposing an amendment to the certificate of incorporation of the Authority, the chairman of the board or other chief executive officer of the Authority and the secretary of the Authority shall sign and file a written application in the name of and on behalf of the Authority, under its seal, with the governing body of the authorizing municipality, requesting such governing body to adopt a resolution approving the proposed amendment, and accompanied by a certified copy of the said resolution adopted by the board proposing the said amendment to the certificate of incorporation, together with such documents in support of the application as the said chairman or other chief executive officer may consider appropriate. As promptly as may be practicable after the filing of the said application with the governing body of the authorizing municipality pursuant to the foregoing provisions of this section, such governing body shall review the said application and shall adopt resolutions either denying the said application or authorizing the proposed amendment. Such governing body shall also cause a copy of the said application and all accompanying documents to be

spread upon or otherwise made a part of the minutes of the meeting of said governing body at which final action upon said application is taken.

Within forty (40) days following the adoption of a resolution approving the proposed amendment by that governing body the chairman of the board or other chief executive officer of the Authority and the secretary of the Authority shall sign, and file for record in the office of the Judge of Probate of the county in which the municipality is located, a certificate in the name of and in behalf of the Authority, under its seal, reciting the adoption of said resolution by the board and by the governing body of the authorizing municipality and setting forth the said proposed amendment.

Section 7. Each Authority shall be governed by a board of directors. All powers of the Authority shall be exercised by the board or pursuant to its authorization. The board shall consist of six (6) directors. Each director shall be elected by the governing body of the authorizing municipality. The initial term of office of three of the directors elected by the governing body of the authorizing municipality shall begin immediately upon their election and shall end at 12:01 A.M., on the second anniversary date of the filing for record of the certificate of incorporation of the Authority. The initial term of office of the remaining directors elected by the governing body of the municipality shall begin immediately upon their election and shall end at 12:01 A.M., on the fourth anniversary date of such filing. Thereafter, the term of office of each such director shall be six years. If at any time there should be a vacancy on the board, a successor director to serve for the unexpired term applicable to such vacancy shall be elected by the governing body of the authorizing municipality. Each election of a director, whether for a full term or to complete an unexpired term, shall be made not earlier than thirty days prior to the date on which such director is to take office as such. No officer or employee of the state or of any county or municipality shall, during his tenure as such officer, be eligible to serve as a director. Each director must be a duly qualified elector of the authorizing municipality. Directors shall be eligible for re-election. Each director shall be reimbursed for expenses actually incurred by him in and about the performance of his duties. If the certificate of incorporation so provides, each director except the chairman of the board shall be compensated in an additional amount not to exceed \$10 per meeting attended but not to exceed \$250 per year. The chairman shall, if said certificate so provides, be compensated in an additional amount not to exceed \$500 per year. Any director of the Authority may be impeached and

removed from office in the same manner and on the same grounds provided by Section 175, Constitution of Alabama 1901, and the general laws of the state for impeachment and removal of the officers mentioned in said Section 175.

Section 8. The Authority shall have the following powers, together with all powers incidental thereto or necessary to the discharge thereof in corporate form:

(1) To have succession by its corporate name for the duration of time (which may be perpetual, subject to the provisions of Section 20 hereof) specified in its certificate of incorporation;

(2) To sue and be sued in its own name in civil suits and actions and to defend suits against it;

(3) To adopt and make use of a corporate seal and to alter the same at pleasure;

(4) To adopt and alter by-laws for the regulation and conduct of its affairs and business;

(5) To acquire, receive and take, by purchase, gift, lease, devise or otherwise, and to hold property of every description, real, personal or mixed, whether located in one or more counties or municipalities and whether located within or outside the authorizing municipality;

(6) To make, enter into, and execute such contracts, agreements, leases and other instruments and to take other actions as may be necessary or convenient to accomplish any purpose for which the Authority was organized or to exercise any power expressly granted hereunder;

(7) To plan, establish, develop, acquire, purchase, lease, construct, reconstruct, enlarge, improve, maintain, equip and operate transit systems, whether located in one or more municipalities within the state, or within the counties in which such municipalities are located; and without any requirement that such transit systems be interconnected or otherwise constitute an integrated operational unit, and to acquire real and personal property, franchises and easements deemed necessary or desirable in connection therewith;

(8) To provide public transportation service within a county in any part thereof, upon such reasonable terms and for such reasonable rates and consideration as the board may prescribe;

(9) To sell and issue bonds of the Authority with prior approval of the municipal governing body in order to provide funds

for any corporate function, use or purpose, any such bonds to be payable solely from the sources specified in Section 10 hereof;

(10) To assume obligations secured by a lien on, or payable out of or secured by a pledge of the revenues from, any transit system or any part thereof, that may be acquired by the Authority, any obligation so assumed to be payable by the Authority solely from the sources from which bonds of the Authority may be made payable pursuant to the provisions of Section 10 hereof;

(11) To pledge for payment of any bonds issued or obligations assumed by the Authority any revenues from which those bonds or obligations are made payable as herein provided;

(12) To execute and deliver, in accordance with the provisions of this section and of Sections 10 and 11 hereof, mortgages and deed of trust and trust indentures, or either;

(13) To exercise the power of eminent domain in the manner provided in and subject to the provisions of Sections 18-1-1 through 18-3-21, Code of Alabama 1975, provided however, that this clause shall not be deemed to authorize the Authority to acquire, without the consent of the owner or owners thereof, any transit system from which public transportation service is at the time being furnished;

(14) To expend funds for the purchase or lease of materials, equipment, supplies or other personal property without compliance with the provisions of Sections 41-16-50, 41-16-51, 41-16-53 through 41-16-61 and 41-16-63, Code of Alabama 1975, that might otherwise be applicable, but only where the expenditure involves less than \$2,000;

(15) Without regard to any provisions of Sections 41-16-50, 41-16-51, 41-16-53 through 41-16-61 and 41-16-63, Code of Alabama 1975, at the option of any local civil service system in a Class III municipality, to appoint, employ, contract with, and provide for the compensation of, such officers, employees and agents, including but without limitation to engineers, attorneys, management consultant, and fiscal advisers, as the business of the Authority may require and at its option to provide a system of disability pay, employees insurance, retirement compensation and pensions, or any of them;

(16) To make and enforce reasonable rules and regulations governing the use of any transit system owned or controlled by the Authority;

(17) To provide for such insurance as the board may deem advisable;

(18) To invest any funds of the Authority that the board may determine are not presently needed in the operation of its properties in bonds of the United States of America, bonds of the state, bonds of any county or municipality, and interest-bearing bank deposits, or any thereof;

(19) To cooperate with the United States of America, any agency or instrumentality thereof, the state, any county, municipality or other political subdivision of the state and any public corporation organized under the laws of the state and to make such contracts with them, or any of them, including agreeing with the terms of any federal statute or regulation as the board may deem advisable to accomplish the purposes for which the Authority was established;

(20) To sell and convey any of its properties that may have become obsolete or worn out or that may no longer be needed or useful as a part of any transit system of the Authority;

(21) To sell and convey, with or without valuable consideration, any of its transit systems or any portion of any thereof, to any one or more counties, municipalities, or public corporations organized under the laws of the state, which have the corporate power to operate the system, or portions thereof, so conveyed and the property and income of which are not subject to taxation; provided, that any such sale and conveyance may be made only with the consent of the authorizing municipality, such consent to be evidenced by a resolution adopted by the governing body of such municipality, and (b) only if any such conveyance would not constitute a breach of any then outstanding mortgage and deed of trust, trust indenture, or other agreement to which the Authority is a party;

(22) To enter into a management agreement or agreements with any person for the management by or for the Authority of any transit system upon such terms and conditions as may be mutually agreeable; and

(23) To fix and revise from time to time reasonable rates, fees and other charges for public transportation service furnished or to be furnished by any transit system owned or operated by the Authority, and to collect all charges made by it.

Section 9. Rates, fees and charges for public transportation service rendered by the Authority from any of its transit systems shall be fixed and from time to time revised as at all times to provide funds that, when added to all other revenues (including tax proceeds) anticipated to be received by the Authority, will be at

least sufficient (a) to pay the cost of operating, maintaining, repairing, replacing, extending and improving the systems from which such services are rendered; (b) to pay the principal of and the interest on all bonds issued and obligations assumed by the Authority, that are payable out of the revenues derived from operation of those systems, as the said principal and interest become due and payable; (c) to create and maintain such reserve for the foregoing purposes or any of them as may be provided in any mortgage and deed of trust or trust indenture executed by the Authority hereunder or in any resolutions of the board authorizing the issuance of bonds, the assumption of any obligation, or the acquisition of any such system; and (d) to make such annual payments, if any, to the United States of America or any agency or instrumentality thereof, the state, municipalities, counties, departments, authorities, agencies, and political subdivisions of the state and any public corporations organized under the laws of the state as the Authority may have contracted to make.

Section 10. All bonds issued by the Authority shall be signed by the chairman of its board or other chief executive officer and attested by its secretary, and the seal of the Authority shall be affixed thereto, and any interest coupons applicable to the bonds of the Authority shall be signed by the chairman of its board or other chief executive officer; provided, that a facsimile of the signature of one, but not both, of said officers may be printed or otherwise reproduced on any such bonds in lieu of his manually signing the same, a facsimile of the seal of the Authority may be printed or otherwise reproduced on any such bonds in lieu of being manually affixed thereto, and a facsimile of the signature of the chairman of its board or other chief executive officer may be printed or otherwise reproduced on any such interest coupons in lieu of his manually signing the same. Any such bonds may be executed and delivered by the Authority at any time and from time to time, shall be in such form and denominations and of such tenor and maturities, shall contain such provisions not inconsistent with the provisions of this Act, and shall bear such rate or rates of interest, payable and evidenced in such manner, as may be provided by resolution of its board. Bonds of the Authority may be sold at either public or private sale in such manner and at such price or prices and at such time or times as may be determined by the board to be most advantageous. The principal of and interest on any bonds issued or obligations assumed by the Authority may thereafter at any time (whether before, at or after maturity of any such principal and whether at, after or not exceeding six months prior to the maturity of any such interest) and from time to time be refunded by the issuance of refunding bonds of the Authority, which may be sold

by the Authority at public or private sale at such price or prices as may be determined by its board to be most advantageous, or which may be exchanged for the bonds or other obligations to be refunded. The Authority may pay all expenses, premiums and commissions which its board may deem necessary and advantageous in connection with any financing done by it. All bonds issued by the Authority shall be construed to be negotiable instruments although payable solely from a specified source. All obligations created or assumed and all bonds issued or assumed by the Authority shall be solely and exclusively an obligation of the Authority and shall not create an obligation or debt of any county or municipality; provided, that the provisions of this sentence shall not be construed to release the original obligor from liability on any bond or other obligation assumed by the Authority. Any bonds issued by the Authority shall be limited or special obligations of the Authority payable solely out of the revenues of the Authority specified in the proceedings authorizing those bonds. Any such proceedings may provide that the bonds therein authorized shall be payable solely from that one or combination of the following sources as may be set forth in any resolution of the board authorizing the issuance of such bonds: (a) any tax proceeds appropriated, allocated or made payable (in whole or in part) to such Authority by or pursuant to any Act of the legislature of the state or by or pursuant to any ordinance, resolution or order of the county in which the Authority is authorized to furnish public transportation service or any municipality located in such county, and (b) the revenues derived from the operation of all transit systems owned by the Authority of solely out of the revenues from the operation of any one or more of such systems or parts thereof, regardless of the fact that those bonds may have been issued with respect to or for the benefit of only certain particular systems of the Authority. The Authority may pledge for the payment of any of its bonds the revenues from which such bonds are payable, and may execute and deliver a trust indenture evidencing any such pledge or a mortgage and deed of trust conveying as security for such bonds the transit systems, or any part of any thereof, the revenues or any part of the revenues from which are so pledged. Any mortgage and deed of trust or trust indenture made by the Authority may contain such agreements as the board may deem advisable respecting the operation and maintenance of the property and the use of the revenues subject to such mortgage and deed of trust or affected by such trust indenture, and respecting the rights, duties and remedies of the parties to any such instrument and the parties for the benefit of whom such instrument is made; provided, that no such instrument shall be subject to foreclosure.

Section 11. As security for payment of the principal of and

the interest on bonds issued or obligations assumed by it, the Authority may enter into a contract or contracts binding itself for the proper application of the proceeds of bonds and other funds, for the continued operation and maintenance of any transit system owned by it, or any part or parts thereof, for the imposition and collection of reasonable rates for and the promulgation of reasonable regulations respecting any service furnished from such system, for the disposition and application of its gross revenues or any part thereof, and for any other act or series of acts not inconsistent with the provisions of this Act for the protection of the bonds and other obligations being secured and the assurance that the revenues from such system, when added to all other moneys of the Authority available therefor, will be sufficient to operate such system, maintain the same in good repair and in good operating condition, pay the principal of and the interest on any bonds payable from such revenues, and maintain such reserve as may be deemed appropriate for the protection of the bonds, the efficient operation of such system, and the making of replacements thereof and capital improvements thereto. Any contract pursuant to the provisions of this section may be set forth in any resolution of the board authorizing the issuance of bonds or the assumption of obligations or in any mortgage and deed of trust, or trust indenture made by the Authority hereunder.

Section 12. Any resolution of the board or trust indenture under which bonds may be issued pursuant to the provisions of this Act may contain provisions creating a statutory mortgage lien, in favor of the holders of such bonds and of the interest coupons applicable thereto, on the transit systems, or any thereof (including any after-acquired property) out of the revenues from which such bonds are made payable. The said resolution of the board or the said trust indenture may provide for the filing for record in the office of the Judge of Probate of each county in which any part of such transit system, or any thereof, may be located of a notice containing a brief description of such systems, a brief description of such bonds, and a declaration that said statutory mortgage lien has been created for the benefit of the holders of such bonds and the interest coupons applicable thereto, upon such systems, including any additions thereto and extensions thereof. Each Judge of Probate shall receive, record and index any such notice filed for record in his office. The recording of such notice, as herein provided, shall operate as constructive notice of the contents thereof.

Section 13. All moneys derived from the sale of any bonds issued by the Authority shall be used solely for the purpose or

purposes for which the same are authorized and any costs and expenses incidental thereto. Such costs and expenses may include but shall not be limited to (1) the fiscal, engineering, legal and other expenses incurred in connection with the issuance of the bonds, (2) in the case of bonds issued to pay costs of acquiring or constructing all or any part of a transit system interest on such bonds (or, if a part only of any series of bonds is issued for acquisition or construction purposes, interest on that portion of the bonds of that series that is issued to pay such acquisition or construction costs) prior to and during such acquisition or construction and for not exceeding one year after completion of such acquisition or construction, and (3) in the case of bonds issued for the purpose of refunding principal and interest, or either, with respect to bonds issued or obligations assumed by the Authority, any premium that it may be necessary to pay in order to redeem or retire the bonds or other obligations to be refunded.

Section 14. For the purpose of securing public transportation or aiding or cooperating with the Authority in the planning, development, undertaking, construction, acquisition, extension, improvement, operation or protection of transit systems, any county, municipality or other political subdivision, public corporation, agency or instrumentality of this state may, upon such terms and with or without consideration, as it may determine: (a) lend or donate money to, or perform services for the benefit of, the Authority; (b) donate, sell, convey, transfer, lease or grant to the Authority, without the necessity of authorization at any election of qualified voters, any property of any kind, including, but without limitation, any transit systems, any interest in any thereof, and any franchise; (c) provide that all or a portion of the taxes or funds available or to become available to, or required by law to be used by it for public transportation service or for the support of transit systems, be transferred or paid directly to the Authority as such funds become available; and (d) do any and all things, whether or not specifically authorized in this section, not otherwise prohibited by law, that may be necessary or convenient to aid and cooperate with the Authority in the planning, undertaking, construction, acquisition, or operation of transit systems.

Section 15. The property and income of the Authority, all bonds issued by the Authority, the income from such bonds, conveyances by or to the Authority, and leases, mortgages, and deeds of trust by or to the Authority shall be exempt from all taxation in the State of Alabama. The Authority shall be exempt from all taxes levied by any county, municipality, or other political subdivision of the state, including, but without limitation to, license

and excise taxes imposed in respect of the privilege of engaging in any of the activities that an Authority may engage in. The Authority shall not be obligated to pay or allow any fees, taxes or costs to the Judge of Probate of any county in respect of its incorporation, the amendment of its certificate of incorporation, or the recording of any document.

Section 16. This Act is intended to aid the state in the execution of its duties by providing appropriate and independent instrumentalities of the state with full and adequate powers to fulfill their functions. Except as in this Act expressly otherwise provided, no proceeding, notice or approval shall be required for the incorporation of any Authority or the amendment of its certificate of incorporation, the acquisition of any property or transit system, or the issuance of any bonds, mortgage and deed of trust, or trust indenture. The Authority, every transit system of the Authority, any public transportation service provided by the Authority, and the rates and charges thereof shall be exempt from all jurisdiction of, and all regulation and supervision by, the Public Service Commission. Neither a public hearing nor the consent of the State Department of Finance shall be prerequisite to the issuance of bonds by the Authority.

Section 17. Each Authority is hereby authorized to use the rights-of-way of all public roads in the state without securing the prior approval of the state or of its agencies or departments or the governing body of said county and subject only to the necessity of obtaining the municipal consent required by Section 220 of the Constitution of Alabama; provided, however, that nothing herein shall be construed to exempt any Authority from the requirements of Section 23-1-4, Code of Alabama 1975; and provided further, that the said Authority shall have the duty to restore at its expense all roads, highways and public rights-of-way in which it may have made excavations or done other work in constructing a transit system or performing any of its other corporate functions.

Section 18. Within thirty (30) days of the beginning of the fiscal year of an Authority, the board shall adopt a budget for such fiscal year. Any such budget may be amended by a resolution of the board from time to time and at any time. Within thirty (30) days following the close of each fiscal year the Authority shall cause an audit of its books and records to be made for such fiscal year by an independent certified public accountant. Within ninety (90) days following the close of each fiscal year the Authority will furnish a copy of such audit to the governing body of the authorizing municipality.

Section 19. At any time when the Authority has no bonds or other obligations outstanding, the board may adopt a resolution, which shall be duly entered upon its minutes, declaring that the Authority shall be dissolved. Upon the filing for record of a certified copy of the said resolution in the office of the Judge of Probate of the county in which the authorizing municipality is located, the Authority shall thereupon stand dissolved and in the event it owned any property at the time of its dissolution, the title to all its properties shall thereupon pass to, and be divided and apportioned as follows: title to real estate shall vest in the county or municipality, as the case may be, in which the said real estate is located, and the title to tangible personal property (including cash on hand and in banks), accounts receivable, choses in action, and other intangible property (other than intangible interest in land) shall vest in the authorizing municipality.

Section 20. The existence of an Authority incorporated under the provisions of this Act, shall prevent the subsequent incorporation hereunder of another Authority in the same county.

Section 21. The provisions of this Act are severable. In the event any section, clause or provision hereof shall be held invalid or unenforceable, such holding shall not invalidate or render unenforceable any other section, clause or provision hereof.

Section 22. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved August 9, 1979

Time: 11:00 A.M.

Act No. 79-778

S. 571—Taylor

AN ACT

Relating to Autauga County; authorizing the county commission to levy a special county privilege license and excise tax paralleling the state sales and use taxes provided for in Chapter 23 of Title 40 of the Code of Alabama 1975, as amended; providing for the collection and enforcement of such taxes by the State Department of Revenue; providing for the distribution and use of the proceeds; and providing penalties for violations of this Act.

Be It Enacted by the Legislature of Alabama:

Section 1. Definitions. The following words, terms and phrases where used in this Act shall have the following respective

meanings except where the context clearly indicates a different meaning:

“County” means Autauga County in the State of Alabama.

“Commissioner” means the commissioner of revenue of the state.

“State Department of Revenue” means the department of revenue of the state.

“State” means the State of Alabama.

“State Sales Tax Statutes” means Division 1 of Article 1 of Chapter 23 of Title 40 of the Code of Alabama 1975, as amended, including all other statutes of the state which expressly set forth any exemptions from the computation of the taxes levied in said Division 1 and all other statutes which expressly apply to, or purport to affect, the administration of said Division 1 and the incidence and collection of the taxes imposed therein.

“State Sales Tax” means the tax or taxes imposed by the State Sales Tax Statutes.

“State Use Tax Statutes” means Article 2 of Chapter 23 of Title 40 of the Code of Alabama of 1975, as amended, including all other statutes of the state which expressly set forth any exemptions from the computation of the tax levied in the said Article 2 and all other statutes of the state which expressly apply to or purport to affect the administration of the said Article 2 and the incidence and collection of the taxes imposed therein.

“State Use Tax” means the tax or taxes imposed by the State Use Tax Statutes.

“Registered Seller” means the person registered with the state department of revenue pursuant to the State Use Tax Statutes or licensed under the State Sales Tax Statutes.

“Month” means a calendar month.

“Quarterly Period” means the period of three months ending on the last day of each March, June, September and December.

“Fiscal Year” means the period commencing on October 1 of each calendar year and ending on September 30 of the next succeeding calendar year.

Except where another meaning is clearly indicated by the context, all definitions set forth in the State Sales Tax Statutes and the State Use Tax Statutes shall be effective as definitions of the

words, terms and phrases used in this Act. All words, terms and phrases used herein, other than those hereinabove specifically defined, shall have the respective meanings ascribed to them in the State Sales Tax Statutes and the State Use Tax Statutes and shall have the same scope and effect that the same words, terms and phrases have where used in the State Sales Tax Statutes and the State Use Tax Statutes.

Section 2. Authorization of Levy of Sales Tax. The governing body of the county is hereby authorized to levy and impose in the county, in addition to all other taxes of every kind now imposed by law, and to collect as herein provided, a privilege or license tax on account of the business activities and in the amount to be determined by the application of rates against gross sales or gross receipts, as the case may be, as follows:

(a) Upon every person, firm or corporation (including the State of Alabama, the University of Alabama, Auburn University and all other institutions of higher learning in the state, whether such institutions be denominational, state, county or municipal institutions, any association or other agency or instrumentality of such institutions) engaged or continuing within the county in the business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character (not including, however, bonds or other evidences of debts or stock, nor sales of material and supplies to any person for use in fulfilling a contract for the painting, repair or reconditioning of vessels, ships and other watercraft of over 50 tons burden) an amount not exceeding one percent of the gross proceeds of sales of the business, except where a different amount is expressly provided herein; provided, however, that any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax required on the gross proceeds of retail sales of such business at the rates specified when his books are kept so as to show separately the gross proceeds of sales of each business, and when his books are not so kept he shall pay the tax as a retailer, on the gross sales of the business; and provided further, that where any used part of an automotive vehicle or a truck trailer, semitrailer or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or rebuilt part, the tax authorized to be levied herein shall be paid on the net difference, that is, the price of the new or used part sold less the credit for the used part taken in trade, provided, however, that this provision shall not be construed to include tires or batteries;

(b) upon every person, firm or corporation engaged or continuing within the county in the business of conducting or

operating places of amusement or entertainment, billiard and pool rooms, bowling alleys, amusement devices, musical devices, theatres, opera houses, moving picture shows, vaudeville, amusement parks, athletic contests, including wrestling matches, prize fights, boxing and wrestling exhibitions, football and baseball games (including athletic contests conducted by or under the auspices of any educational institution within this state, or any athletic association thereof, or other association whether such institution or association be denominational, a state, county, or a municipal institution or association or a state, county or city school, or other institution, association, or school), skating rinks, race tracks, golf courses, or any other place at which any exhibition, display, amusement, or entertainment is offered to the public or place or places where an admission fee is charged, including public bathing places, public dance halls of every kind and description within the county, an amount not exceeding one percent of the gross receipts of any such business;

(c) upon every person, firm or corporation engaged or continuing within the county in the business of selling at retail machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property an amount not exceeding one-half of one percent of the gross proceeds of the sale of such machines; provided that the term "machine" as herein used shall include machinery which is used for mining, quarrying, compounding, processing or manufacturing tangible personal property and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used;

(d) upon every person, firm or corporation engaged or continuing within the county in the business of selling at retail any automotive vehicle, truck, trailer, semi-trailer or house trailer, an amount not exceeding one-half of one percent of the gross proceeds of sale of said automotive vehicle, truck, trailer, semi-trailer or house trailer; provided, however, where a person subject to the tax provided for in this subsection withdraws from his stock in trade any automotive vehicle or truck, trailer, semi-trailer or house trailer for use by him or by his employee or agent in the operation of such business, there shall be paid, in lieu of the tax authorized to be levied herein, a fee of one dollar and twenty-five cents (\$1.25) per year or part thereof during which such automotive vehicle, truck, trailer, semi-trailer or house trailer shall remain the property of such person; provided, that each such year or part thereof shall be deemed to begin with the day or anniversary date, as the case may be, of such withdrawal and shall run for the twelve succeeding

months or part thereof during which such automotive vehicle, truck, trailer, semi-trailer or house trailer shall remain the property of such person; and provided further, that where any used automotive vehicle, truck, trailer, semi-trailer or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax authorized to be levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade:

(e) Upon every person, firm or corporation engaged or continuing within the county in the business of selling at retail any machine, machinery or equipment which is used in planting, cultivating and harvesting farm products, or used in connection with the production of agricultural produce or produce, livestock or poultry on farms, and the parts of such machines, machinery or equipment, attachments and replacements therefor which are made or manufactured for use on or in the operation of such machine, machinery or equipment, and which are necessary to and customarily used in the operation of such machine, machinery or equipment, an amount equal to one-half percent ($\frac{1}{2}\%$) of the gross proceeds of the sale thereof. Provided, however, the one-half percent ($\frac{1}{2}\%$) rate herein prescribed with respect to parts, attachments, and replacements shall not apply to any automotive vehicle or trailer designed primarily for public highway use, except farm trailers used primarily in the production and harvesting of agricultural commodities.

Where any used machine, machinery or equipment which is used in planting, cultivating, and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock and poultry on farms is taken in trade or in a series of trades as a credit or part payment on a sale of a new or used machine, machinery or equipment, the tax levied herein shall be paid on the net difference, that is, the price of the new or used machine, machinery or equipment sold, less the credit for the used machine, machinery or equipment taken in trade; and

(f) upon every person, firm or corporation engaged or continuing within the county in the business of selling, through coin-operated dispensing machines, food and food products for human consumption, not including beverages other than coffee, milk, milk products and substitutes therefor, an amount not exceeding one-half of one percent of the cost of such food, food products and beverages sold through such machines, which cost for the purpose of this subsection (f) shall be the gross proceeds of sales of such business.

There are exempted, however, from the provisions of this section and from the computation of the amount of the taxes authorized to be imposed in this section, the gross receipts of any business and the gross proceeds of all sales which are presently exempted under the State Sales Tax Statutes from the computation of the amount of the State Sales Tax.

Section 3. Authorization of Levy of Use Tax. The governing body of the county is hereby authorized to levy and impose excise taxes on the storage, use or other consumption of property in the county as hereinafter provided in this section:

(a) An excise tax is hereby authorized to be levied and imposed on the storage, use or other consumption in the county of tangible personal property (not including, however, materials and supplies bought for use in fulfilling a contract for the painting, repairing or reconditioning of vessels, barges, ships and other watercraft of more than 50 tons burden) purchased at retail on or after the effective date of such tax, for the storage, use or other consumption in the county on or after the effective date of such tax, at the rate of not exceeding one percent of the sale price of such property, except as provided in subsection (b), (c), (d) and (e) of this section;

(b) an excise tax is hereby authorized to be levied and imposed on the storage, use or other consumption in the county of any machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property purchased at retail on or after the effective date of such tax for storage, use or other consumption in the county, at the rate of not exceeding one-half of one percent of the sales price of any such machine; provided, that the term "machine," as used herein shall include machinery which is used for mining, quarrying, compounding, processing or manufacturing tangible personal property and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines and are customarily so used;

(c) an excise tax is hereby authorized to be levied and imposed on the storage, use or other consumption in the county of any automotive vehicle, truck, trailer, semi-trailer or house trailer purchased at retail on or after the effective date of such tax for storage, use or other consumption in the county at the rate of not exceeding one-half of one percent of the sales price of such automotive vehicle, truck, trailer, semi-trailer or house trailer; provided, that where any used automotive vehicle, truck, trailer, semi-trailer or house trailer is taken in trade, or in a series of trades,

as a credit or part payment on the sale of a new or used vehicle, the tax herein authorized to be levied shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade; and

(d) an excise tax is hereby levied and imposed on the storage, use or other consumption in the county of any machine, machinery, or equipment which is used in planting, cultivating, and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock, or poultry on farms, and the parts of such machines, machinery, or equipment, attachments and replacements therefor which are made or manufactured for use on or in the operation of such machine, machinery, or equipment, and which are necessary to and customarily used in the operation of such machine, machinery, or equipment, which is purchased at retail after the effective date of this ordinance, for the storage, use or other consumption in the county at the rate of one-half of one percent ($\frac{1}{2}\%$) of the sales price of such property within the county, regardless of whether the retailer is or is not engaged in the business in this county. Provided, however, the one-half of one percent ($\frac{1}{2}\%$) rate herein prescribed with respect to parts, attachments, and replacements shall not apply to any automotive vehicle or trailer designed primarily for public highway use, except farm trailers used primarily in the production and harvesting of agricultural commodities. Where any used machine, machinery or equipment which is used in planting, cultivating, and harvesting farm products or used in connection with the production of agricultural produce or products, livestock, and poultry on farms is taken in trade or in a series of trades as a credit or part payment on a sale of a new or used machine, machinery, or equipment, the tax levied herein shall be paid on the net difference, that is, the price of the new or used machine, machinery, or equipment sold, less the credit for the used machine, machinery, or equipment taken in trade; and

(e) an excise tax is hereby authorized to be levied and imposed on the classes of tangible personal property, and at not exceeding the rate authorized to be imposed on such classes, specified in subsections (a), (b), (c) or (d) of this section, on the storage, use or other consumption in the performance of a contract in the county of any such tangible personal property, new or used, the tax to be measured by the sales price or the fair and reasonable market value of such tangible personal property when put into use in the county, whichever is less; provided, however, the tax authorized to be imposed by this subsection shall not apply where the taxes imposed by subsections (a), (b), (c) or (d) of this section apply.

There are exempted from the provisions of this section, and from the taxes authorized to be imposed by this section, the storage, use or other consumption of property the storage, use or other consumption of which is presently exempted under the State Use Tax Statutes from the State Use Tax. Subject to those exemptions, every person storing or using or otherwise consuming in the county tangible personal property purchased at retail on or after the effective date of such taxes shall be liable for the taxes authorized to be imposed by this section, and the liability shall not be extinguished until the tax has been paid by such person; provided, however, that a receipt from a registered seller given pursuant to Section 6 of this Act to the purchaser of any property to be used, stored or consumed in the county shall be sufficient to relieve the purchaser from further liability for a tax to which such receipt may refer.

Section 4. Payment of Taxes Herein Levied; Reports by Taxpayers. The sales taxes authorized to be levied in Section 2 hereof shall be due and payable in monthly installments on or before the twentieth day of the month next succeeding the month in which the tax accrues; and the use taxes authorized to be levied in Section 3 hereof shall be due and payable quarterly on or before the twentieth day of the month next succeeding each quarterly period during which the storage, use or other consumption of the tangible personal property became taxable hereunder, each such quarterly period to end on the last day of each of the months of March, June, September and December. The sales taxes authorized to be levied in Section 2 of this Act shall be paid to and collected by the state department of revenue at the same time as and along with the payment and collection of the State Sales Tax; and the use taxes authorized to be levied in Section 3 of this Act shall be paid to and collected by the state department of revenue at the same time as and along with the payment and collection of the State Use Tax. On or prior to the due dates of the taxes herein authorized to be levied, each person subject to such taxes shall file with the state department of revenue a report or return in such form as may be prescribed by the said department, setting forth, with respect to all sales and business that are required to be used as a measure of the sales taxes herein authorized to be levied, a correct statement of the gross proceeds of all such taxes and the gross receipts of all such business, and setting forth, with respect to the use taxes authorized to be levied herein, the total sales price of all property, the use, storage or other consumption of which became subject to the said taxes during the then preceding quarterly period. Such report shall include all such other items of information pertinent to the said taxes and the amount thereof as the state department of revenue may require. Any person subject to the sales taxes authorized to be

levied herein may defer reporting credit sales until after their collection, and in the event he so defers reporting them, he shall thereafter include in each monthly report all credit collections made during the month preceding and shall pay the taxes due thereon at the time of filing such report. All reports or returns filed with the state department of revenue under this section shall be available for inspection by the governing body of the county or its designated agent at reasonable times during business hours.

Section 5. Sales Tax to be Added to Sales Price or Admission Fee. Each person engaging or continuing within the county in a business subject to the sales taxes authorized to be levied in Section 2 hereof shall add to the sales price or admission fee and collect from the purchaser or the person paying the admission fee the amount due by the taxpayer on account of said taxes. It shall be unlawful for any person subject to the sales taxes authorized to be levied in the said Section 2 to fail or refuse to add to the sales price or admission fee and to collect from the purchaser or the person paying the admission fee the amount herein required to be so added to the sales or admission price and collected from the purchaser, and it shall likewise be unlawful for any person subject to said taxes to refund or offer to refund all or any part of the amount so collected or to absorb or advertise directly or indirectly the absorption or refund of said taxes or any portion thereof.

Section 6. Special Provisions Respecting Payment of Use Tax; Receipts and Returns by Registered Sellers. Every registered seller making sales of tangible personal property for storage, use or other consumption in the county (which storage, use or other consumption is not exempted from the use taxes herein authorized to be levied) shall at the time of making such sale, or if the storage, use or other consumption of such tangible personal property in the county is not then subject to the taxes herein authorized to be levied, at the time such storage, use or other consumption becomes subject to the taxes herein authorized to be levied, collect the tax from the purchaser, and shall give to the purchaser a receipt therefor in the manner and form prescribed by the state department of revenue. On the twentieth day of the month next succeeding following the close of each quarterly period, each registered seller shall file with the state department of revenue a return for the then preceding quarterly period in such form as may be prescribed by the state department of revenue showing the total sales price of the tangible personal property sold by such registered seller, the storage, use or other consumption of which became subject to the use taxes herein authorized to be imposed, during the then preceding quarterly period; and each return shall be accompanied by a remittance of the amount of the use taxes

required to be collected by such registered seller during the period covered by the return; provided that any registered seller may defer collecting the taxes with respect to credit sales until collection of the proceeds of such sales and may defer reporting credit sales until after their collection, but shall thereafter collect the said taxes along with collection of said credit sales, shall include in each quarterly report all credit collections made during the preceding quarterly period and shall remit the taxes with respect thereto at the time of filing such report or return. Any person who has paid to a registered seller the tax with respect to the use, storage or other consumption of tangible personal property in the county need not file a report or make any further payment of the said tax, but each person who purchases tangible personal property the storage, use or other consumption of which is subject to the use taxes authorized to be imposed herein, and who has not paid the said use taxes due with respect thereto to a registered seller, shall report and pay said use taxes as required by Section 4 hereof. It shall be unlawful for any registered seller to fail or refuse to add to the sales price and to collect from the purchaser the amount of the use taxes authorized to be imposed herein or to refund or offer to refund or absorb, or to advertise directly or indirectly, the absorption of said use taxes or any portion thereof.

Section 7. Enforcement of This Act; Civil Suit; Taxes a Lien.

The taxes authorized to be imposed by this Act shall constitute a debt due the county and may be collected by civil suit, in addition to all other methods provided by law and in this Act. The said taxes, together with interest and penalties with respect thereto, shall constitute and be secured by a lien upon the property of any person from whom said taxes are due or who is required to collect said taxes. All the provisions of the revenue laws of the state which apply to the enforcement of liens for license taxes due the state shall apply fully to the collection of the taxes herein authorized to be levied, and the state department of revenue, for the use and benefit of the county, shall collect such taxes and enforce this Act and shall have and exercise for such collection and enforcement all rights and remedies that the state department of revenue has for collection of the State Sales Tax and the State Use Tax. The state department of revenue shall have full authority to employ such special counsel as it deems necessary from time to time to enforce collection of the taxes authorized to be levied by this Act and otherwise to enforce the provisions of this Act, including the institution, prosecution and defense of any litigation involving this Act; and the said department shall pay such special counsel such fees as it deems necessary and proper from the proceeds of the taxes collected by it hereunder.

Section 8. Applicability of State Sales and Use Tax Statutes. All provisions of the State Sales Tax Statutes with respect to payment, assessment and collection of the State Sales Tax, making of monthly reports and keeping and preserving records with respect thereto, interest after the due date of said tax, penalties for failure to pay the said tax, make reports or otherwise comply with the State Sales Tax Statutes, the promulgation of rules and regulations with respect to the State Sales Tax, and the administration and enforcement of the State Sales Tax Statutes, which are not inconsistent with the provisions of this Act, when applied to the sales taxes authorized to be levied in Section 2 hereof, shall apply to the sales taxes authorized to be levied in the said Section 2; and all provisions of the State Use Tax Statutes with respect to payment, assessment and collection of the State Use Tax, making quarterly reports and keeping and preserving records with respect thereto, interest after the due date of the State Use Tax, penalties for failure to pay said tax, make reports or otherwise to comply with the State Use Tax Statutes, the promulgation of rules and regulations with respect to the State Use Tax and the administration and enforcement of the State Use Tax Statutes, which are not inconsistent with the provisions of this Act, when applied to the use taxes authorized to be levied in Section 3 hereof, shall apply to the use taxes authorized to be levied in the said Section 3. The commissioner and the state department of revenue shall have and exercise the same powers, duties and obligations, with respect to the taxes herein authorized to be levied, that are imposed on the commissioner and the said department by the State Sales Tax Statutes and the State Use Tax Statutes. All provisions of the State Sales Tax Statutes and the State Use Tax Statutes that are made applicable by this Act to the taxes herein authorized to be levied and to the administration of this act are incorporated herein by reference and made a part hereof as if fully set forth herein.

Section 9. Charge of State Department of Revenue; Its Disposition of Tax Proceeds. The state department of revenue shall charge the county, for collecting the taxes authorized to be levied herein, the costs of the said department in collecting the said taxes; provided such charge shall not, in any event, exceed five percent of the total amount of the taxes collected hereunder. Such charge for collecting the said taxes for the county may be deducted each month from the tax proceeds collected before the amount of the said proceeds due the county for that month is certified as provided in this section. The commissioner shall pay into the state treasury all taxes collected under this Act, as such taxes are received by the state department of revenue; and on or before the first of each successive month (commencing with the month next

succeeding the month in which the said department makes the first collection of any of the taxes authorized to be levied hereunder) the commissioner shall certify to the state comptroller the amount of taxes collected under the provisions of this Act and paid by him into the state treasury for the benefit of the county during the month immediately preceding the making of such certificate and shall state separately in the said certificate the amount of the proceeds so collected from the taxes authorized to be levied in Section 2 hereof and the amount of the proceeds so collected from the taxes authorized to be levied in Section 3 hereof; provided, however, that before certifying the amount of taxes paid into the state treasury for the benefit of the county during each month, the commissioner may deduct from the taxes collected hereunder in said month the charges due the said department for collection of said taxes. It shall be the duty of the state comptroller (i) to issue his warrant each month, payable to the county in an amount equal to the amount so certified by the commissioner as having been collected for the use of the county, and (ii) to transmit to the county, along with the said warrant, a copy of the said certificate by the commissioner.

Section 10. Use of Tax Proceeds. The proceeds of any taxes herein authorized to be levied shall be paid over by the county within ten (10) days after their receipt as follows:

(a) Fifty percent (50%) shall be paid over to the county board of education,

(b) fifty percent (50%) shall be paid over to the county general fund.

Section 11. Effective Date of Levy. If the governing body of the county elects to levy or impose any of the taxes herein authorized to be levied and imposed, it shall specify, as the effective date of any such levy, the first day of the second month following such levy.

Section 12. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 13. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 9, 1979

Time: 11:00 A.M.

Act No. 79-779

S. 599—Keener

AN ACT

To set the compensation of the tax collector of Etowah County.

Be It Enacted by the Legislature of the State of Alabama:

Section 1. The tax collector of Etowah County shall be paid the sum of \$20,000.00 per year as compensation for his or her services, which sum shall be in lieu of any and all other compensation or allowances.

Section 2. The salary hereby established shall be paid in equal monthly installments from such funds as otherwise provided by law.

Section 3. The provisions of this act are severable. Should any part of this act be declared unconstitutional, the part or parts which remain shall not be affected.

Section 4. All laws or parts of laws which are in conflict with this act are hereby repealed.

Section 5. This act shall become effective upon the commencement of the next term of office of the tax collector of Etowah County.

Approved August 9, 1979

Time: 11:00 A.M.

Act No. 79-780

S. 618—McDonald

AN ACT

To amend Act No. 366, S. 472, 1978 Regular Session (Acts 1978, p. 309) entitled "An Act Relating to Limestone County; providing for the compensation and expense allowance of certain county officers," so as to provide further for said compensation and to give this act retroactive effect.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 366, S. 472, 1978 Regular Session (Acts 1978, p. 309) is hereby amended to read as follows:

"Section 1. The following officers of Limestone County shall receive the following annual salaries to be paid from county funds in equal monthly installments:

Chairman, County Commission \$19,200.00

County Commission Members	13,200.00
Probate Judge	17,500.00
Tax Assessor	15,700.00
Tax Collector	15,700.00
Sheriff	19,000.00
Coroner	2,500.00

“Such salaries shall be in lieu of all other compensation heretofore provided by law and all fees, commissions, percentages and other charges heretofore collected for the use of any of the above officers shall be collected and paid into the general fund of the county.”

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. The provisions of this amendment shall have retroactive effect to the first day of January 1979.

Approved August 9, 1979

Time: 11:00 A.M.

Act No. 79-781

S. 619—McDonald

AN ACT

Relating to Limestone County; to provide an additional expense allowance for certain elected county officers.

Be It Enacted by the Legislature of Alabama:

Section 1. The Chairman and all members of the County Commission, the Probate Judge, Tax Assessor, Tax Collector, and Sheriff of Limestone County shall receive an additional expense allowance of \$1,000 per year; the county coroner of said county shall receive an additional expense allowance of \$500.00 per year. Said expense allowance shall be in addition to any and all other salary, compensation and expense allowance heretofore recieved, and shall be payable in equal monthly installments out of the county general fund.

Section 2. This act shall become effective on the first Monday after the second Tuesday in January, 1980.

Approved August 9, 1979

Time: 11:00 A.M.

Act No. 79-782

S. 635—Proctor

AN ACT

Relating to the method of giving notice of the requirement of attendance of jury service and the procedure for summoning witnesses in Shelby County; to provide that witnesses may be subpoenaed by United States mail in the county under certain conditions.

Be It Enacted by the Legislature of Alabama:

Section 1. Notices of the requirement of the attendance of jury service in the circuit court of Shelby County may be served by first class mail, or may be served as provided by Section 12-17-73, Code of Alabama 1975. If, in the discretion of the sheriff, the service is made by first class mail, such service shall be made as follows: It shall be the duty of the sheriff to enclose the summons in an envelope addressed to the person to be served and place all necessary postage and a return address thereon with notice to the postal authorities not to forward outside of the county. In the event said jury summons is returned to the sheriff by the post office department of the United States without delivery, the summons shall be made by the sheriff returned NOT FOUND. All jury summons not returned by said post office department shall be considered for all purposes as sufficient personal and legal service. The provisions of this section in reference to service by mail, however, shall not apply to jury summons returnable before the court instant, but such summons shall be served only as provided by Section 12-17-73, Code of Alabama 1975.

Section 2. Subpoenas requiring the attendance of witnesses in any civil, criminal, equity, or other case or proceeding in the county, or before the grand jury of the county may be served by the sheriff or constable personally or by leaving a copy thereof at the place of residence of the witness, or the sheriff may serve the same by placing a copy thereof in the United States mail, enclosing the subpoena in an envelope properly stamped and addressed to the person or witness to be served. Upon service by the sheriff upon any witness or person by any one of the foregoing methods, the sheriff shall immediately mark the process executed. If the subpoena so mailed is not delivered to the addressee but is returned to the sheriff by the United States post office department, then the sheriff shall immediately make a diligent effort to serve the subpoena either personally or by leaving a copy thereof at the place of residence of the witness.

Section 3. Anything to the contrary notwithstanding in Section 2 above, any judge having jurisdiction of the proceeding or case may, on motion of any party or on the court's own motion, order any particular subpoena or the subpoenas in any case or proceeding to be served personally or by leaving a copy thereof at the place of residence of the said witness or person or by United States registered or certified mail.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this act are hereby repealed.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 9, 1979

Time: 11:00 A.M.

Act No. 79-783

H. 825—Manley, Clark, Pegues,
Minus

AN ACT

To provide for the establishing of a Solicitor's and District Attorney's Fund in the seventeenth judicial circuit; to provide that all solicitor's and district attorney's fees taxed as costs and collected in all criminal cases in all courts in said circuit shall be paid by the clerks of said courts into the Solicitor's and District Attorney's Fund; and to authorize certain expenditures from said fund.

Be It Enacted by the Legislature of Alabama:

Section 1. All solicitor's and district attorney's fees hereafter taxed as cost and collected in all criminal cases in all courts in the seventeenth judicial circuit shall be paid by the clerk of the court collecting such fees into a fund to be designated as the Solicitor's and District Attorney's Fund, and shall be kept, used and expended in the manner hereinafter provided. Such payments shall be made to such fund by the clerk of the court by the 10th day of each month following the collection.

Section 2. The district attorney and any circuit judge of the seventeenth judicial circuit are hereby authorized to requisition expenditures from the said Solicitor's and District Attorney's Fund for the payment of the following items:

(A) Office supplies, equipment, furniture, postage and

telephone expenses, clerical or bailiff expenses.

(B) Necessary expenses relative to obtaining evidence in any criminal or civil case, whether pending or under investigation.

(C) Film, photographs, maps, recording and dictating tapes.

(D) Actual travel expenses incurred while on the business of the office.

(E) Continuing legal, professional or judicial education and conferences, including actual expenses incidental thereto.

(F) Professional dues and assessments.

(G) Professional books and periodicals and newspapers for use of offices of district attorney and circuit judge of such judicial circuit.

(H) Witness fees and transportation costs.

(I) Informer fees.

(J) For any other law enforcement or crime preventive purpose.

(K) Any other expenditure incurred in the proper discharge and conduct of the duties of the offices of the district attorney and circuit judge or of the circuit court.

The district attorney shall be the only person authorized to approve vouchers for payment from the fund upon certification made to him that the funds requested were, or are, to be used for the purpose enumerated in this section of this act.

Section 3. All laws or parts of laws in conflict with this act are repealed.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 9, 1979

Time: 10:00 A.M.

AN ACT

Relating to Madison County; to provide the procedure for filling vacancies in any judgeship of any circuit or district court in the county.

Be It Enacted by the Legislature of Alabama:

Section 1. All vacancies in the office of judge of the circuit court or district court holding in Madison County which shall occur subsequent to the effective date of this Act shall be filled in the manner and for the time as herein provided.

The Madison County judicial commission is hereby created for the purpose of nominating to the governor persons for appointment to such a vacancy. The members of such commission shall be (a) two persons who are members of the Alabama state bar, and (b) two persons who are not members of the Alabama state bar, and (c) one judge of the circuit court holding in Madison County.

All members of such commission must reside in the territorial jurisdiction of the circuit court holding in Madison County.

The two members of such commission who are required to be members of the Alabama state bar shall be elected by the members of such bar who are regularly licensed and qualified to practice law in this state and who reside in the territorial jurisdiction of the circuit court holding in Madison County. The executive committee of the Madison County bar association or its successor body in such capacity, is authorized and directed to make rules, not inconsistent with this Act, for the election of such members of such commission as are required to be members of the Alabama state bar. Such executive committee shall certify in writing to the probate judge of Madison County the names of the persons elected as members of such commission by such members of such bar.

The senator and representatives in the Alabama legislature residing in Madison County shall elect the two members of the commission who are required not to be members of the Alabama state bar. Such senator and representatives shall certify in writing to such probate judge the names of the persons elected by them as such members.

The judges of the circuit court holding in Madison County shall elect the member of such commission who is required to be a judge of such circuit court. The judges of such circuit court shall certify in writing to such probate judge the name of the circuit judge elected by such circuit judges as such member.

The present members of the Madison County Judicial Commission established under Amendment No. 334 to the

Constitution of 1901, shall be the initial members of the Madison County Judicial Commission established by this Act, and shall serve for the remainder of their unexpired terms under the first commission. Thereafter, the terms of office of the members of the commission established by this Act shall be six years. A vacancy in the office of a member of such commission shall be filled for the unexpired term in the same manner as such member was originally chosen.

The probate judge of Madison County shall record all such certificates of election and shall safely and permanently keep the original certificates. Forthwith upon his receipt and recordation of every such certificate, he shall send to the governor a certified copy of every such certificate.

No member of such commission shall be eligible to succeed himself as such member or for nomination to the governor for appointment as judge of such circuit or district court during the term of office for which such member shall have been selected.

The members of such commission shall not receive any salary or other compensation for their services as such members. No member of such commission, other than the member required to be a judge of the circuit court, shall hold any public office, and no member of such commission shall hold any official position in any political party.

If, after the effective date of this Act, a vacancy occurs in the office of judge of the circuit court or district court holding in Madison County, such commission shall nominate to the governor three persons having the qualifications for such office. Such nomination shall be made only by the concurrence of a majority of the members of such commission. The governor shall appoint to the office in which the vacancy exists one of the three persons so nominated for such office. If the governor shall fail to make an appointment from the list within 30 days from the date it is presented to him, the appointment shall be made by the chief justice or the acting chief justice of the supreme court from the same list. The appointee shall hold such office until the next general election for any state officer held at least six months after the vacancy occurs and until his successor is elected and qualified; the successor shall hold office for the unexpired term and until his successor is elected and qualified.

Section 2. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 9, 1979

Time: 11:00 A.M.

Act No. 79-785

H. 1034—Waggoner, Moore, Smith (C)

AN ACT

Relating to Shelby County; to levy and collect special county privilege license and excise taxes paralleling the state sales and use taxes provided for in Chapter 23 of Title 40, Code of Alabama 1975, as amended; providing for the collection and enforcement of such taxes by the state revenue department; providing for the distribution and use of the proceeds; providing penalties for violations of this act; and providing that the terms of this act shall not become effective unless approved by the electors of Shelby County at a referendum election held for such purpose.

Be It Enacted by the Legislature of Alabama:

Section 1. Definitions. The following words, terms and phrases where used in this act shall have the following respective meanings except where the context clearly indicates a different meaning:

“County” means Shelby County in the State of Alabama.

“Commissioner” means the commissioner of revenue of the state.

“State Department of Revenue” means the department of revenue of the state.

“State” means the State of Alabama.

“State Sales Tax Statutes” means Division 1 of Article 1 of Chapter 23 of Title 40 of the Code of Alabama of 1975, as amended, including all other statutes of the state which expressly set forth any exemptions from the computation of the taxes levied in said Division 1 and all other statutes which expressly apply to, or purport to affect, the administration of said Division 1 and the incidence and collection of the taxes imposed therein.

“State Sales Tax” means the tax or taxes imposed by the State Sales Tax Statutes.

“State Use Tax Statutes” means Article 2 of Chapter 23 of Title 40 of the Code of Alabama of 1975, as amended, including all other statutes of the state which expressly set forth any exemptions from the computation of the tax levied in the said Article 2 and all other statutes of the state which expressly apply to or purport to affect the administration of the said Article 2 and the incidence and collection of the taxes imposed therein.

“State Use Tax” means the tax or taxes imposed by the State Use Tax Statutes.

“Registered Seller” means the person registered with the state department of revenue pursuant to the State Use Tax Statutes or licensed under the State Sales Tax Statutes.

“Month” means a calendar month.

“Quarterly Period” means the period of three months ending on the last day of each March, June, September and December.

“Fiscal Year” means the period commencing on October 1 of each calendar year and ending on September 30 of the next succeeding calendar year.

Except where another meaning is clearly indicated by the context, all definitions set forth in the State Sales Tax Statutes and the State Use Tax Statutes shall be effective as definitions of the words, terms and phrases used in this act. All words, terms and phrases used herein, other than those hereinabove specifically defined, shall have the respective meanings ascribed to them in the State Sales Tax Statutes and the State Use Tax Statutes and shall have the same scope and effect that the same words, terms and phrases have where used in the State Sales Tax Statutes and the State Use Tax Statutes.

Section 2. Levy of Sales Tax. There is hereby levied in Shelby County, in addition to all other taxes of every kind now imposed by law, and to collect as herein provided, a privilege or license tax on account of the business activities and in the amount to be determined by the application of rates against gross sales or gross receipts, as the case may be, as follows:

(a) Upon every person, firm or corporation (including the State of Alabama and its alcoholic beverage control board in the sale of alcoholic beverages of all kinds, the University of Alabama, Auburn University and all other institutions of higher learning in the state, whether such institutions be denominational, state, county or municipal institutions, any association or other agency or instrumentality of such institutions) engaged or continuing within

the county in the business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character (not including, however, bonds or other evidences of debts or stock, nor sales of material and supplies to any person for use in fulfilling a contract for the painting, repair or reconditioning of vessels, ships and other watercraft of over 50 tons burden) an amount of one percent of the gross proceeds of sales of the business, except where a different amount is expressly provided herein; provided, however, that any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax required on the gross proceeds of retail sales of such business at the rates specified when his books are kept so as to show separately the gross proceeds of sales of each business, and when his books are not so kept he shall pay the tax as a retailer, on the gross sales of the business; and provided further, that where any used part of an automotive vehicle or truck trailer, semitrailer or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or rebuilt part, the tax levied herein shall be paid on the net difference, that is, the price of the new or used part sold less the credit for the used part taken in trade, provided, however, that this provision shall not be construed to include tires or batteries;

(b) upon every person, firm or corporation engaged or continuing within the county in the business of conducting or operating places of amusement or entertainment, billiard and pool rooms, bowling alleys, amusement devices, musical devices, theatres, opera houses, moving picture shows, vaudevilles, amusement parks, athletic contests, including wrestling matches, prize fights, boxing and wrestling exhibitions, football and baseball games (including athletic contests conducted by or under the auspices of any educational institution within this state, or any athletic association thereof, or other association whether such institution or association be denominational, a state, county, or a municipal institution or association or a state, county or city school, or other institution, association, or school), skating rinks, race tracks, golf courses, or any other place at which any exhibition, display, amusement, or entertainment is offered to the public or place or places where an admission fee is charged, including public bathing places, public dance halls of every kind and description within the county, an amount of one percent of the gross receipts of any such business;

(c) upon every person, firm or corporation engaged on continuing within the county in the business of selling at retail machines used in mining, quarrying, compounding, processing and

manufacturing of tangible personal property an amount of three-eighths of one percent of the gross proceeds of the sale of such machines; provided that the term "machine" as herein used shall include machinery which is used for mining, quarrying, compounding, processing or manufacturing tangible personal property and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used;

(d) upon every person, firm or corporation engaged or continuing within the county in the business of selling at retail any automotive vehicle, truck, trailer, semi-trailer or house trailer, an amount of three-eighths of one percent of the gross proceeds of sale of said automotive vehicle, truck, trailer, semi-trailer or house trailer; provided, however, where a person subject to the tax provided for in this subsection withdraws from his stock in trade any automotive vehicle or truck, trailer, semi-trailer or house trailer for use by him or by his employee or agent in the operation of such business, there shall be paid, in lieu of the tax levied herein, a fee of one dollar and twenty-five cents (\$1.25) per year or part thereof during which such automotive vehicle, truck, trailer, semi-trailer or house trailer shall remain the property of such person; provided, that each such year or part thereof shall be deemed to begin with the day or anniversary date, as the case may be, of such withdrawal and shall run for the twelve succeeding months or part thereof during which such automotive vehicle, truck, trailer, semi-trailer or house trailer shall remain the property of such person; and provided further, that where any used automotive vehicle, truck, trailer, semi-trailer or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade; and

(e) upon every person, firm or corporation engaged or continuing within the county in the business of selling, through coin-operated dispensing machines, food and food products for human consumption, not including beverages other than coffee, milk, milk products and substitutes therefor, an amount of three-eighths of one percent of the cost of such food, food products and beverages sold through such machines, which cost for the purpose of this subsection (e) shall be the gross proceeds of sales of such business.

There are exempted, however, from the provisions of this section and from the computation of the amount of the taxes authorized to be imposed in this section, the gross receipts of any

business and the gross proceeds of all sales which are presently exempted under the state sales tax statutes from the computation of the amount of the state sales tax.

Section 3. Levy of Use Tax. There is hereby levied and imposed an excise tax on the storage, use or other consumption of property in Shelby County as hereinafter provided in this section:

(a) An excise tax is hereby levied and imposed on the storage, use or other consumption in the county of tangible personal property (not including, however, materials and supplies bought for use in fulfilling a contract for the painting, repairing or reconditioning of vessels, barges, ships and other watercraft of more than 50 tons burden) purchased at retail on or after the effective date of such tax, for the storage, use or other consumption in the county on or after the effective date of such tax, at the rate of one percent of the sale price of such property, except as provided in subsection (b), (c) and (d) of this section;

(b) an excise tax is hereby levied and imposed on the storage, use or other consumption in the county of any machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property purchased at retail on or after the effective date of such tax for storage, use or other consumption in the county, at the rate of three-eighths of one percent of the sales price of any such machine; provided, that the term "machine," as used herein shall include machinery which is used for mining, quarrying, compounding, processing, or manufacturing tangible personal property and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines and are customarily so used;

(c) an excise tax is hereby levied and imposed on the storage, use or other consumption in the county of any automotive vehicle, truck, trailer, semi-trailer or house trailer purchased at retail on or after the effective date of such tax for storage, use or other consumption in the county at the rate of three-eighths of one percent of the sales price of such automotive vehicle, truck, trailer, semi-trailer or house trailer; provided, that where any used automotive vehicle, truck, trailer, semi-trailer or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax herein levied shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade; and

(d) an excise tax is hereby levied and imposed on the classes of tangible personal property, and at the rate authorized to be imposed on such classes, specified in subsections (a), (b) or (c) of this

section, on the storage, use or other consumption in the performance of a contract in the county of any such tangible personal property, new or used, the tax to be measured by the sales price or the fair and reasonable market value of such tangible personal property when put into use in the county, whichever is less; provided, however, the tax imposed by this subsection shall not apply where the taxes imposed by subsections (a), (b) and (c) of this section apply.

There are exempted from the provisions of this section, and from the taxes imposed by this section, the storage, use or other consumption of property the storage, use or other consumption of which is presently exempted under the state use tax statutes from the state use tax. Subject to those exemptions, every person storing or using or otherwise consuming in the county tangible personal property purchased at retail on or after the effective date of such taxes shall be liable for the taxes imposed by this section, and the liability shall not be extinguished until the tax has been paid by such person; provided, however, that a receipt from a registered seller given pursuant to Section 6 of this act to the purchaser of any property to be used, stored or consumed in the county shall be sufficient to relieve the purchaser from further liability for a tax to which such receipt may refer.

Section 4. Payment of Taxes Herein Levied; Reports by Taxpayers. The sales taxes levied in Section 2 hereof shall be due and payable in monthly installments on or before the twentieth day of the month next succeeding the month in which the tax accrues; and the use taxes levied in Section 3 hereof shall be due and payable quarterly on or before the twentieth day of the month next succeeding each quarterly period during which the storage, use or other consumption of the tangible personal property became taxable hereunder, each such quarterly period to end on the last day of each of the months of March, June, September and December. The sales taxes levied in Section 2 of this act shall be paid to and collected by the state department of revenue at the same time as and along with the payment and collection of the state sales tax; and the use taxes levied in Section 3 of this act shall be paid to and collected by the state department of revenue at the same time as and along with the payment and collection of the state use tax. On or prior to the due dates of the taxes herein levied, each person subject to such taxes shall file with the state department of revenue a report or return in such form as may be prescribed by the said department, setting forth, with respect to all sales and business that are required to be used as a measure of the sales taxes herein levied, a correct statement of the gross proceeds of all such taxes and the gross receipts of all such business, and setting forth, with respect to the use taxes levied herein the total sales price of all property, the use,

storage or other consumption of which became subject to the said taxes during the then preceding quarterly period. Such report shall include all such other items of information pertinent to the said taxes and the amount thereof as the state department of revenue may require. Any person subject to the sales taxes levied herein may defer reporting credit sales until after their collection, and in the event he so defers reporting them, he shall thereafter include in each monthly report all credit collections made during the month preceding and shall pay the taxes due thereon at the time of filing such report. All reports or returns filed with the state department of revenue under this section shall be available for inspection by the governing body of the county or its designated agent at reasonable times during business hours.

Section 5. Sales Tax to be Added to Sales Price or Admission Fee. Each person engaging or continuing within the county in a business subject to the sales taxes levied in Section 2 hereof shall add to the sales price or admission fee and collect from the purchaser or the person paying the admission fee the amount due by the taxpayer on account of said taxes. It shall be unlawful for any person subject to the sales taxes levied in the said Section 2 to fail or refuse to add to the sales price or admission fee and to collect from the purchaser or the person paying the admission fee the amount herein required to be so added to the sales or admission price and collected from the purchaser, and it shall likewise be unlawful for any person subject to said taxes to refund or offer to refund all or any part of the amount so collected or to absorb or advertise directly or indirectly the absorption or refund of said taxes or any portion thereof.

Section 6. Special Provisions Respecting Payment of Use Tax; Receipts and Returns by Registered Sellers. Every registered seller making sales of tangible personal property for storage, use or other consumption in the county (which storage, use or other consumption is not exempted from the use taxes herein levied) shall at the time of making such sale, or if the storage, use or other consumption of such tangible personal property in the county is not then subject to the taxes herein levied, at the time such storage, use or other consumption becomes subject to the taxes herein levied, collect the tax from the purchaser, and shall give to the purchaser a receipt therefor in the manner and form prescribed by the state department of revenue. On the twentieth day of the month next succeeding following the close of each quarterly period, each registered seller shall file with the state department of revenue a return for the then preceding quarterly period in such form as may be prescribed by the state department of revenue showing the total sales price of the tangible personal property sold

by such registered seller, the storage, use or other consumption of which became subject to the use taxes herein imposed, during the then preceding quarterly period; and each return shall be accompanied by a remittance of the amount of the use taxes required to be collected by such registered seller during the period covered by the return; provided that any registered seller may defer collecting the taxes with respect to credit sales until collection of the proceeds of such sales and may defer reporting credit sales until after their collection, but shall thereafter collect the said taxes along with collection of said credit sales, shall include in each quarterly report all credit collections made during the preceding quarterly period and shall remit the taxes with respect thereto at the time of filing such report or return. Any person who has paid to a registered seller the tax with respect to the use, storage or other consumption of tangible personal property in the county need not file a report or make any further payment of the said tax, but each person who purchases tangible personal property the storage, use or other consumption of which is subject to the use taxes imposed herein, and who has not paid the said use taxes due with respect thereto to a registered seller, shall report and pay said use taxes as required by Section 4 hereof. It shall be unlawful for any registered seller to fail or refuse to add to the sales price and to collect from the purchaser the amount of the use taxes imposed herein or to refund or offer to refund or absorb, or to advertise directly or indirectly, the absorption of said use taxes or any portion thereof.

Section 7. Enforcement of This Act; Civil Suit; Taxes a Lien. The taxes imposed by this act shall constitute a debt due the county and may be collected by civil suit, in addition to all other methods provided by law and in this Act. The said taxes, together with interest and penalties with respect thereto, shall constitute and be secured by a lien upon the property of any person from whom said taxes are due or who is required to collect said taxes. All the provisions of the revenue laws of the state which apply to the enforcement of liens for license taxes due the state shall apply fully to the collection of the taxes herein levied, and the state department of revenue, for the use and benefit of the county as hereinafter specified, shall collect such taxes and enforce this Act and shall have and exercise for such collection and enforcement all rights and remedies that the state department of revenue has for collection of the State Sales Tax and the State Use Tax. The state department of revenue shall have full authority to employ such special counsel as it deems necessary from time to time to enforce collection of the taxes levied by this act and otherwise to enforce the provisions of this Act, including the institution, prosecution and defense of any litigation involving this Act; and the said department shall pay such special

counsel such fees as it deems necessary and proper from the proceeds of the taxes collected by it hereunder.

Section 8. Applicability of State Sales and Use Tax Statutes. All provisions of the State Sales Tax Statutes with respect to payment, assessment and collection of the State Sales Tax, making of monthly reports and keeping and preserving records with respect thereto, interest after the due date of said tax, penalties for failure to pay the said tax, make reports or otherwise comply with the State Sales Tax Statutes, the promulgation of rules and regulations with respect to the State Sales Tax, and the administration and enforcement of the State Sales Tax Statutes, which are not inconsistent with the provisions of this Act, when applied to the sales taxes levied in Section 2 hereof, shall apply to the sales taxes levied in Section 2; and all provisions of the state use tax statutes with respect to payment, assessment and collection of the State Use Tax, making quarterly reports and keeping and preserving records with respect thereto, interest after the due date of the State Use Tax, penalties for failure to pay said tax, make reports or otherwise to comply with the State Use Tax Statutes, the promulgation of rules and regulations with respect to the State Use Tax and the administration and enforcement of the State Use Tax Statutes, which are not inconsistent with the provisions of this Act, when applied to the use taxes levied in Section 3 hereof, shall apply to the use taxes in the said Section 3. The commissioner and the state department of revenue shall have and exercise the same powers, duties and obligations, with respect to the taxes herein levied, that are imposed on the commissioner and the said department by the State Sales Tax Statutes and the State Use Tax Statutes. All provisions of the State Sales Tax Statutes and the State Use Tax Statutes that are made applicable by this Act to the taxes herein levied and to the administration of this act are incorporated herein by reference and made a part hereof as if fully set forth herein.

Section 9. Charge of State Department of Revenue; Disposition of Tax Proceeds. The state department of revenue shall charge the county, for collecting the taxes levied herein, the costs of the said department in collecting the said taxes; provided such charge shall not, in any event, exceed five percent of the total amount of the taxes collected hereunder. Such charge for collecting the said taxes for the county may be deducted each month from the tax proceeds collected before the amount of the said proceeds due the county for that month is certified as provided in this section. The commissioner shall pay into the state treasury all taxes collected under this Act, as such taxes are received by the state department

of revenue; and on or before the first of each successive month (commencing with the month next succeeding the month in which the said department makes the first collection of any of the taxes levied hereunder) the commissioner shall certify to the state comptroller the amount of taxes collected under the provisions of this Act and paid by him into the state treasury for the benefit of the county during the month immediately preceding the making of such certificate and shall state separately in the said certificate the amount of the proceeds so collected from the taxes levied in Section 2 hereof and the amount of the proceeds so collected from the taxes levied in Section 3 hereof; provided, however, that before certifying the amount of taxes paid into the state treasury for the benefit of the county during each month, the commissioner may deduct from the taxes collected hereunder in said month the charges due the said department for collection of said taxes. It shall be the duty of the state comptroller (i) to issue his warrant each month, payable to the county in an amount equal to the amount so certified by the commissioner as having been collected for the use of the county, and (ii) to transmit to the county, along with the said warrant, a copy of the said certificate by the commissioner.

Section 10. Use of Tax Proceeds. The proceeds of any taxes herein levied shall be paid over by the county within ten (10) days after their receipt as follows:

(a) Fifty percent (50%) shall be paid over to the county and various city boards of education based on the ratio of the number of students in the public school in any school system to the number of students in the public schools of the entire county for the school year;

(b) fifty percent (50%) shall be paid over to the county general fund.

Section 11. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 12. This act shall be effective and operative only if it shall have been approved by a majority of the qualified electors of Shelby County who vote thereon at a referendum election held for such purpose. The election shall be held and conducted as nearly as may be in the same way as elections on amendments to the Constitution, and shall be held on the same day as the next primary or general election of state or county officers, or any election of any amendment to the Constitution, next following final passage of this act. Notice of the election shall be given by the judge of probate of Shelby County, which notice shall be published once a week for three successive weeks before the day of the election. On the ballots

to be used at the election, the proposition to be voted on shall be stated substantially as follows:

“Do you favor the local law passed at the 1979 Regular Session of the Legislature which imposes a one percent sales and use tax for Shelby County the proceeds of which are divided 50% to the county and city boards of education and 50% to the county general fund? Yes () No ().”

If a majority of the votes cast at the election are affirmative votes, this act shall be in full force and effect immediately thereafter. If a majority of the votes cast are in the negative, the act shall have no legal effect. The judge of probate of Shelby County shall certify the results of the election to the Secretary of State and to the state revenue department immediately after the returns have been certified.

Approved August 9, 1979

Time: 9:00 A.M.

Act No. 79-786

H. 1045—Riddick, Greer, Goodwin,
Gregg, Carter, Roberts,
Kelley, Albright, Hall,
Coburn, Smith (M)

AN ACT

To amend Sections 40-28-1 through 40-28-3, Code of Alabama 1975, which provide for the distribution of in-lieu-of-taxes payments by the Tennessee Valley Authority to counties served by the Tennessee Valley Authority and to dry counties not served by the Tennessee Valley Authority, so as to provide further for said distribution.

Be It Enacted by the Legislature of Alabama:

Section 1. Definitions. The following words, terms and phrases where used in this Act shall have the following respective meanings except where the context clearly indicates a different meaning.

1. “T.V.A.” means the Tennessee Valley Authority.
2. “A.B.C.” means the Alcoholic Beverage Control Board.
3. “A.B.C. payments” means any monies which are distributed by law to the several local governments from the taxes and/or profits of the Alcoholic Beverage Control Board.
4. “Book value” means the value that T.V.A. carries on its books for its property.

5. "Industrial power sales" means that power which is sold by T.V.A. directly to individual concerns as reported and determined by T.V.A.

6. "In lieu of taxes payments" shall mean those payments made directly to the State of Alabama and not to local governments or distributors under federal statute (16 USC, § 831) by T.V.A. which are in lieu of all taxes to all levels of government in Alabama.

7. Property means the property of T.V.A. allocated to or associated with the power program of T.V.A. as reported by T.V.A.

8. "Served" or "T.V.A. served" means provided power that is produced by T.V.A. and sold through municipal or cooperative distributors or T.V.A. as reported by T.V.A.

9. "Wet" means the local governments in those areas which permit the sale of alcoholic beverages.

10. "Dry" means the local governments in areas which prohibit the sale of alcoholic beverages.

Section 2. Section 40-28-1, Code of Alabama 1975, is hereby amended to read as follows:

"§ 40-28-1.

"(a) Beginning in the fiscal year ending September 30, 1980, the state of Alabama will annually transfer to the counties in Alabama served by T.V.A. a portion of the in-lieu-of-taxes payments made by T.V.A. to the state of Alabama. Such transfer of funds shall be according to the following schedule:

For the Fiscal Year:	The % Of In-Lieu-Of-Taxes Payments Transferred to the T.V.A. Served Counties by the State Shall Be:
1979-80	20%
1980-81	30%
1981-82	40%
1982-83	50%
1983-84	60%
1984-85	70%
1985-86	
and each fiscal year thereafter	75%

"(b) In addition to the distribution provided for in subsection (a), the state shall distribute each fiscal year five percent of the in-lieu-of-taxes payments to the dry counties and municipalities therein which are not served by T.V.A. Said 5% shall be distributed on the same proportionate basis that each such county received in

fiscal year 1978-79 from A.B.C. payments as compared to the total A.B.C. payments received by all dry counties not served by T.V.A. during the same fiscal year. The distribution of such in-lieu-of-taxes payment between each dry non-T.V.A.-served county and the municipalities located therein shall be made pro rata on the basis of A.B.C. payments received by each such jurisdiction in the fiscal year 1979 to the total A.B.C. payment to the county and all municipalities in such county in the fiscal year 1979. Such distribution to the municipalities will be administered by the county governing body.

“(c) Any T.V.A.-served, dry county which is eligible to receive funds under the provisions of section 40-28-2 shall receive from that portion of the in-lieu-of-taxes payments not less than that amount which said county received in A.B.C. payments in the fiscal year 1978-79.”

Section 3. Section 40-82-2, Code of Alabama 1971, is hereby amended to read as follows:

“§ 40-28-2.

“(a) Distribution of the in-lieu-of-taxes payments of T.V.A. by the state to the served counties shall be made to the governing bodies of served counties. Any county receiving a share of said payments that has within its boundaries a municipality or part thereof that is served in whole or in part by T.V.A. shall share in the county's payments with said municipality receiving the same amount as the ratio of T.V.A.-served population of the municipality bears to the T.V.A.-served population of the entire county. However, the legislature may by general or local laws prescribe other distribution within such counties to local governments and/or public agencies therein.

“(b) The in-lieu-of-taxes payments distributed each year to the served counties shall be as follows:

“(1) Eighty percent of the amount of such distribution to the served counties shall be distributed among the counties in the same proportion that the amount of T.V.A. power sales revenue generated in that county less industrial power sales bears to the total amount of T.V.A. power sales revenue generated in all counties less industrial power sales in all served counties.

“(2) Ten percent of the amount of such distribution to the served counties shall be distributed among the counties in the same proportion that the book value amount of the T.V.A.'s property in each county bears to the total book value of all T.V.A.'s property in all counties served by the T.V.A.

“(3) Ten percent of the amount of such percentage of payments shall be distributed among the counties in the same proportion that the T.V.A.’s industrial power sales in each county bears to the total amount of T.V.A.’s industrial power sales in all served counties of the state.”

Section 4. Section 40-28-3, Code of Alabama 1975, is hereby amended to read as follows:

“§ 40-28-3.

“Payments by the state to the counties pursuant to this chapter will be made within 30 days after the state department of revenue receives each payment from T.V.A. and such payments shall be made by warrants drawn by the comptroller upon said T.V.A. funds in the state treasury and in such amounts as certified by the department of revenue.”

Section 5. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 7. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 9, 1979

Time: 9:00 A.M.

Act No. 79-787

H. 1057—Adams (H)

AN ACT

Relating to Cherokee County; authorizing the county commission to levy a special county privilege license and excise tax paralleling the state sales and use taxes provided for in Chapter 23 of Title 40 of the Code of Alabama 1975, as amended; providing for the collection and enforcement of such taxes by the State Department of Revenue; providing for the distribution and use of the proceeds; and providing penalties for violations of this Act.

Be It Enacted by the Legislature of Alabama:

Section 1. Definitions. The following words, terms and phrases where used in this Act shall have the following respective meanings except where the context clearly indicates a different meaning:

“County” means Cherokee County in the State of Alabama.

“Commissioner” means the commissioner of revenue of the state.

“State Department of Revenue” means the department of revenue of the state.

“State” means the State of Alabama.

“State Sales Tax Statutes” means Division 1 of Article 1 of Chapter 23 of Title 40 of the Code of Alabama of 1975, as amended, including all other statutes of the state which expressly set forth any exemptions from the computation of the taxes levied in said Division 1 and all other statutes which expressly apply to, or purport to affect, the administration of said Division 1 and the incidence and collection of the taxes imposed therein.

“State Sales Tax” means the tax or taxes imposed by the State Sales Tax Statutes.

“State Use Tax Statutes” means Article 2 of Chapter 23 of Title 40 of the Code of Alabama of 1975, as amended, including all other statutes of the state which expressly set forth any exemptions from the computation of the tax levied in the said Article 2 and all other statutes of the state which expressly apply to or purport to affect the administration of the said Article 2 and the incidence and collection of the taxes imposed therein.

“State Use Tax” means the tax or taxes imposed by the State Use Tax Statutes.

“Registered Seller” means the person registered with the state department of revenue pursuant to the State Use Tax Statutes or licensed under the State Sales Tax Statutes.

“Month” means a calendar month.

“Quarterly Period” means the period of three months ending on the last day of each March, June, September and December.

“Fiscal Year” means the period commencing on October 1 of each calendar year and ending on September 30 of the next succeeding calendar year.

Except where another meaning is clearly indicated by the context, all definitions set forth in the State Sales Tax Statutes and the State Use Tax Statutes shall be effective as definitions of the words, terms and phrases used in this Act. All words, terms and phrases used herein, other than those hereinabove specifically defined, shall have the respective meanings ascribed to them in the

State Sales Tax Statutes and the State Use Tax Statutes and shall have the same scope and effect that the same words, terms and phrases have where used in the State Sales Tax Statutes and the State Use Tax Statutes.

Section 2. Authorization of Levy of Sales Tax. The governing body of the county is hereby authorized to levy and impose in the county, in addition to all other taxes of every kind now imposed by law, and to collect as herein provided, a privilege or license tax on account of the business activities and in the amount to be determined by the application of rates against gross sales or gross receipts, as the case may be, as follows:

(a) Upon every person, firm or corporation (including the State of Alabama, the University of Alabama, Auburn University and all other institutions of higher learning in the state, whether such institutions be denominational, state, county or municipal institutions, any association or other agency or instrumentality of such institutions) engaged or continuing within the county in the business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character (not including, however, bonds or other evidences of debts or stock, nor sales of material and supplies to any person for use in fulfilling a contract for the painting, repair or reconditioning of vessels, ships and other watercraft of over 50 tons burden) an amount not exceeding one percent of the gross proceeds of sales of the business, except where a different amount is expressly provided herein; provided, however, that any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax required on the gross proceeds of retail sales of such business at the rates specified when his books are kept so as to show separately the gross proceeds of sales of each business, and when his books are not so kept he shall pay the tax as a retailer, on the gross sales of the business; and provided further, that where any used part of an automotive vehicle or a truck trailer, semitrailer or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or rebuilt part, the tax authorized to be levied herein shall be paid on the net difference, that is, the price of the new or used part sold less the credit for the used part taken in trade, provided, however, that this provision shall not be construed to include tires or batteries;

(b) upon every person, firm or corporation engaged or continuing within the county in the business of conducting or operating places of amusement or entertainment, billiard and pool rooms, bowling alleys, amusement devices, musical devices, theatres, opera houses, moving picture shows, vaudeville,

amusement parks, athletic contests, including wrestling matches, prize fights, boxing and wrestling exhibitions, football and baseball games (including athletic contests conducted by or under the auspices of any educational institution within this state, or any athletic association thereof, or other association whether such institution or association be denominational, a state, county, or a municipal institution or association or a state, county or city school, or other institution, association, or school), skating rinks, race tracks, golf courses, or any other place at which any exhibition, display, amusement, or entertainment is offered to the public or place or places where an admission fee is charged, including public bathing places, public dance halls of every kind and description within the county, an amount not exceeding one percent of the gross receipts of any such business;

(c) upon every person, firm or corporation engaged or continuing within the county in the business of selling at retail machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property an amount not exceeding one-half of one percent of the gross proceeds of the sale of such machines; provided that the term "machine" as herein used shall include machinery which is used for mining, quarrying, compounding, processing or manufacturing tangible personal property and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used;

(d) upon every person, firm or corporation engaged or continuing within the county in the business of selling at retail any automotive vehicle, truck, trailer, semi-trailer or house trailer, an amount not exceeding one-half of one percent of the gross proceeds of sale of said automotive vehicle, truck, trailer, semi-trailer or house trailer; provided, however, where a person subject to the tax provided for in this subsection withdraws from his stock in trade any automotive vehicle or truck, trailer, semi-trailer or house trailer for use by him or by his employee or agent in the operation of such business, there shall be paid, in lieu of the tax authorized to be levied herein, a fee of one dollar and twenty-five cents (\$1.25) per year or part thereof during which such automotive vehicle, truck, trailer, semi-trailer or house trailer shall remain the property of such person; provided, that each such year or part thereof shall be deemed to begin with the day or anniversary date, as the case may be, of such withdrawal and shall run for the twelve succeeding months or part thereof during which such automotive vehicle, truck, trailer, semi-trailer or house trailer shall remain the property of such person; and provided further, that where any used

automotive vehicle, truck, trailer, semi-trailer or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax authorized to be levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade;

(e) Upon every person, firm or corporation engaged or continuing within the county in the business of selling at retail any machine, machinery or equipment which is used in planting, cultivating and harvesting farm products, or used in connection with the production of agricultural produce or produce, livestock or poultry on farms, and the parts of such machines, machinery or equipment, attachments and replacements therefor which are made or manufactured for use on or in the operation of such machine, machinery or equipment, and which are necessary to and customarily used in the operation of such machine, machinery or equipment, an amount equal to one-half percent ($\frac{1}{2}\%$) of the gross proceeds of the sale thereof. Provided, however, the one-half percent ($\frac{1}{2}\%$) rate herein prescribed with respect to parts, attachments, and replacements shall not apply to any automotive vehicle or trailer designed primarily for public highway use, except farm trailers used primarily in the production and harvesting of agricultural commodities.

Where any used machine, machinery or equipment which is used in planting, cultivating, and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock and poultry on farms is taken in trade or in a series of trades as a credit or part payment on a sale of a new or used machine, machinery or equipment, the tax levied herein shall be paid on the net difference, that is, the price of the new or used machine, machinery or equipment sold, less the credit for the used machine, machinery or equipment taken in trade; and

(f) upon every person, firm or corporation engaged or continuing within the county in the business of selling, through coin-operated dispensing machines, food and food products for human consumption, not including beverages other than coffee, milk, milk products and substitutes therefor, an amount not exceeding one-half of one percent of the cost of such food, food products and beverages sold through such machines, which cost for the purpose of this subsection (f) shall be the gross proceeds of sales of such business.

There are exempted, however, from the provisions of this section and from the computation of the amount of the taxes

authorized to be imposed in this section, the gross receipts of any business and the gross proceeds of all sales which are presently exempted under the State Sales Tax Statutes from the computation of the amount of the State Sales Tax.

Section 3. Authorization of Levy of Use Tax. The governing body of the county is hereby authorized to levy and impose excise taxes on the storage, use or other consumption of property in the county as hereinafter provided in this section:

(a) An excise tax is hereby authorized to be levied and imposed on the storage, use or other consumption in the county of tangible personal property (not including, however, materials and supplies bought for use in fulfilling a contract for the painting, repairing or reconditioning of vessels, barges, ships and other watercraft of more than 50 tons burden) purchased at retail on or after the effective date of such tax, for the storage, use or other consumption in the county on or after the effective date of such tax, at the rate of not exceeding one percent of the sale price of such property, except as provided in subsection (b), (c), (d) and (e) of this section;

(b) an excise tax is hereby authorized to be levied and imposed on the storage, use or other consumption in the county of any machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property purchased at retail on or after the effective date of such tax for storage, use or other consumption in the county, at the rate of not exceeding one-half of one percent of the sales price of any such machine; provided, that the term "machine," as used herein shall include machinery which is used for mining, quarrying, compounding, processing or manufacturing tangible personal property and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines and are customarily so used;

(c) an excise tax is hereby authorized to be levied and imposed on the storage, use or other consumption in the county of any automotive vehicle, truck, trailer, semi-trailer or house trailer purchased at retail on or after the effective date of such tax for storage, use or other consumption in the county at the rate of not exceeding one-half of one percent of the sales price of such automotive vehicle, truck, trailer, semi-trailer or house trailer; provided, that where any used automotive vehicle, truck, trailer, semi-trailer or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax herein authorized to be levied shall be paid on the net difference, that is, the price of a new or used vehicle sold less the credit for the used vehicle taken in trade; and

authorized to be levied shall be paid on the net difference, that is, the price of a new or used vehicle sold less the credit for the used vehicle taken in trade; and

(d) an excise tax is hereby levied and imposed on the storage, use or other consumption in the county of any machine, machinery, or equipment which is used in planting, cultivating, and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock, or poultry on farms, and the parts of such machines, machinery, or equipment, attachments and replacements therefor which are made or manufactured for use on or in the operation of such machine, machinery, or equipment, and which are necessary to and customarily used in the operation of such machine, machinery, or equipment, which is purchased at retail after the effective date of this ordinance, for the storage, use or other consumption in the county at the rate of one-half of one percent ($\frac{1}{2}\%$) of the sales price of such property within the county, regardless of whether the retailer is or is not engaged in the business in this county. Provided, however, the one-half of one percent ($\frac{1}{2}\%$) rate herein prescribed with respect to parts, attachments, and replacements shall not apply to any automotive vehicle or trailer designed primarily for public highway use, except farm trailers used primarily in the production and harvesting of agricultural commodities. Where any used machine, machinery or equipment which is used in planting, cultivating, and harvesting farm products or used in connection with the production of agricultural produce or products, livestock, and poultry on farms is taken in trade or in a series of trades as a credit or part payment on a sale of a new or used machine, machinery, or equipment, the tax levied herein shall be paid on the net difference, that is, the price of the new or used machine, machinery, or equipment sold, less the credit for the used machine, machinery, or equipment taken in trade; and

(e) an excise tax is hereby authorized to be levied and imposed on the classes of tangible personal property, and at not exceeding the rate authorized to be imposed on such classes, specified in subsections (a), (b), (c) or (d) of this section, on the storage, use or other consumption in the performance of a contract in the county of any such tangible personal property, new or used, the tax to be measured by the sales price or the fair and reasonable market value of such tangible personal property when put into use in the county, whichever is less; provided, however, the tax authorized to be imposed by this subsection shall not apply where the taxes imposed by subsections (a), (b), (c) or (d) of this section apply.

There are exempted from the provisions of this section, and from the taxes authorized to be imposed by this section, the storage,

use or other consumption of property the storage, use or other consumption of which is presently exempted under the State Use Tax Statutes from the State Use Tax. Subject to those exemptions, every person storing or using or otherwise consuming in the county tangible personal property purchased at retail on or after the effective date of such taxes shall be liable for the taxes authorized to be imposed by this section, and the liability shall not be extinguished until the tax has been paid by such person; provided, however, that a receipt from a registered seller given pursuant to Section 6 of this Act to the purchaser of any property to be used, stored or consumed in the county shall be sufficient to relieve the purchaser from further liability for a tax to which such receipt may refer.

Section 4. Payment of Taxes Herein Levied: Reports by Taxpayers. The sales taxes authorized to be levied in Section 2 hereof shall be due and payable in monthly installments on or before the twentieth day of the month next succeeding the month in which the tax accrues; and the use taxes authorized to be levied in Section 3 hereof shall be due and payable quarterly on or before the twentieth day of the month next succeeding each quarterly period during which the storage, use or other consumption of the tangible personal property became taxable hereunder, each such quarterly period to end on the last day of each of the months of March, June, September and December. The sales taxes authorized to be levied in Section 2 of this Act shall be paid to and collected by the state department of revenue at the same time as and along with the payment and collection of the State Sales Tax; and the use taxes authorized to be levied in Section 3 of this Act shall be paid to and collected by the state department of revenue at the same time as and along with the payment and collection of the State Use Tax. On or prior to the due dates of the taxes herein authorized to be levied, each person subject to such taxes shall file with the state department of revenue a report or return in such form as may be prescribed by the said department, setting forth, with respect to all sales and business that are required to be used as a measure of the sales taxes herein authorized to be levied, a correct statement of the gross proceeds of all such taxes and the gross receipts of all such business, and setting forth, with respect to the use taxes authorized to be levied herein, the total sales price of all property, the use, storage or other consumption of which became subject to the said taxes during the then preceding quarterly period. Such report shall include all such other items of information pertinent to the said taxes and the amount thereof as the state department of revenue may require. Any person subject to the sales taxes authorized to be levied herein may defer reporting credit sales until after their collection, and in the event he so defers reporting them, he shall

thereafter include in each monthly report all credit collections made during the month preceding and shall pay the taxes due thereon at the time of filing such report. All reports or returns filed with the state department of revenue under this section shall be available for inspection by the governing body of the county or its designated agent at reasonable times during business hours.

Section 5. Sales Tax to be Added to Sales Price or Admission Fee. Each person engaging or continuing within the county in a business subject to the sales taxes authorized to be levied in Section 2 hereof shall add to the sales price or admission fee and collect from the purchaser or the person paying the admission fee the amount due by the taxpayer on account of said taxes. It shall be unlawful for any person subject to the sales taxes authorized to be levied in the said Section 2 to fail or refuse to add to the sales price or admission fee and to collect from the purchaser or the person paying the admission fee the amount herein required to be so added to the sales or admission price and collected from the purchaser, and it shall likewise be unlawful for any person subject to said taxes to refund or offer to refund all or any part of the amount so collected or to absorb or advertise directly or indirectly the absorption or refund of said taxes or any portion thereof.

Section 6. Special Provisions Respecting Payment of Use Tax; Receipts and Returns by Registered Sellers. Every registered seller making sales of tangible personal property for storage, use or other consumption in the county (which storage, use or other consumption is not exempted from the use taxes herein authorized to be levied) shall at the time of making such sale, or if the storage, use or other consumption of such tangible personal property in the county is not then subject to the taxes herein authorized to be levied, at the time such storage, use or other consumption becomes subject to the taxes herein authorized to be levied, collect the tax from the purchaser, and shall give to the purchaser a receipt therefor in the manner and form prescribed by the state department of revenue. On the twentieth day of the month next succeeding following the close of each quarterly period, each registered seller shall file with the state department of revenue a return for the then preceding quarterly period in such form as may be prescribed by the state department of revenue showing the total sales price of the tangible personal property sold by such registered seller, the storage, use or other consumption of which became subject to the use taxes herein authorized to be imposed, during the then preceding quarterly period; and each return shall be accompanied by a remittance of the amount of the use taxes required to be collected by such registered seller during the period

covered by the return; provided that any registered seller may defer collecting the taxes with respect to credit sales until collection of the proceeds of such sales and may defer reporting credit sales until after their collection, but shall thereafter collect the said taxes along with collection of said credit sales, shall include in each quarterly report all credit collections made during the preceding quarterly period and shall remit the taxes with respect thereto at the time of filing such report or return. Any person who has paid to a registered seller the tax with respect to the use, storage or other consumption of tangible personal property in the county need not file a report or make any further payment of the said tax, but each person who purchases tangible personal property the storage, use or other consumption of which is subject to the use taxes authorized to be imposed herein, and who has not paid the said use taxes due with respect thereto to a registered seller, shall report and pay said use taxes as required by Section 4 hereof. It shall be unlawful for any registered seller to fail or refuse to add to the sales price and to collect from the purchaser the amount of the use taxes authorized to be imposed herein or to refund or offer to refund or absorb, or to advertise directly or indirectly, the absorption of said use taxes or any portion thereof.

Section 7. Enforcement of This Act; Civil Suit; Taxes a Lien. The taxes authorized to be imposed by this Act shall constitute a debt due the county and may be collected by civil suit, in addition to all other methods provided by law and in this Act. The said taxes, together with interest and penalties with respect thereto, shall constitute and be secured by a lien upon the property of any person from whom said taxes are due or who is required to collect said taxes. All the provisions of the revenue laws of the state which apply to the enforcement of liens for license taxes due the state shall apply fully to the collection of the taxes herein authorized to be levied, and the state department of revenue, for the use and benefit of the county, shall collect such taxes and enforce this Act and shall have and exercise for such collection and enforcement all rights and remedies that the state department of revenue has for collection of the State Sales Tax and the State Use Tax. The state department of revenue shall have full authority to employ such special counsel as it deems necessary from time to time to enforce collection of the taxes authorized to be levied by this Act and otherwise to enforce the provisions of this Act, including the institution, prosecution and defense of any litigation involving this Act; and the said department shall pay such special counsel such fees as it deems necessary and proper from the proceeds of the taxes collected by it hereunder.

Section 8. Applicability of State Sales and Use Tax Statutes. All provisions of the State Sales Tax Statutes with respect to payment, assessment and collection of the State Sales Tax, making of monthly reports and keeping and preserving records with respect thereto, interest after the due date of said tax, penalties for failure to pay the said tax, make reports or otherwise comply with the State Sales Tax Statutes, the promulgation of rules and regulations with respect to the State Sales Tax, and the administration and enforcement of the State Sales Tax Statutes, which are not inconsistent with the provisions of this Act, when applied to the sales taxes authorized to be levied in Section 2 hereof, shall apply to the sales taxes authorized to be levied in the said Section 2; and all provisions of the State Use Tax Statutes with respect to payment, assessment and collection of the State Use Tax, making quarterly reports and keeping and preserving records with respect thereto, interest after the due date of the State Use Tax, penalties for failure to pay said tax, make reports or otherwise to comply with the State Use Tax Statutes, the promulgation of rules and regulations with respect to the State Use Tax and the administration and enforcement of the State Use Tax Statutes, which are not inconsistent with the provisions of this Act, when applied to the use taxes authorized to be levied in Section 3 hereof, shall apply to the use taxes authorized to be levied in the said Section 3. The commissioner and the state department of revenue shall have and exercise the same powers, duties and obligations, with respect to the taxes herein authorized to be levied, that are imposed on the commissioner and the said department by the State Sales Tax Statutes and the State Use Tax Statutes. All provisions of the State Sales Tax Statutes and the State Use Tax Statutes that are made applicable by this Act to the taxes herein authorized to be levied and to the administration of this Act are incorporated herein by reference and made a part hereof as if fully set forth herein.

Section 9. Charge of State Department of Revenue; Its Disposition of Tax Proceeds. The state department of revenue shall charge the county, for collecting the taxes authorized to be levied herein, the costs of the said department in collecting the said taxes; provided such charge shall not, in any event, exceed five percent of the total amount of the taxes collected hereunder. Such charge for collecting the said taxes for the county may be deducted each month from the tax proceeds collected before the amount of the said proceeds due the county for that month is certified as provided in this section. The commissioner shall pay into the state treasury all taxes collected under this Act, as such taxes are received by the state department of revenue; and on or before the first of each successive month (commencing with the month next

succeeding the month in which the said department makes the first collection of any of the taxes authorized to be levied hereunder) the commissioner shall certify to the state comptroller the amount of taxes collected under the provisions of this Act and paid by him into the state treasury for the benefit of the county during the month immediately preceding the making of such certificate and shall state separately in the said certificate the amount of the proceeds so collected from the taxes authorized to be levied in Section 2 hereof and the amount of the proceeds so collected from the taxes authorized to be levied in Section 3 hereof; provided, however, that before certifying the amount of taxes paid into the state treasury for the benefit of the county during each month, the commissioner may deduct from the taxes collected hereunder in said month the charges due the said department for collection of said taxes. It shall be the duty of the state comptroller (i) to issue his warrant each month, payable to the county in an amount equal to the amount so certified by the commissioner as having been collected for the use of the county, and (ii) to transmit to the county, along with the said warrant, a copy of the said certificate by the commissioner.

Section 10. Use of Tax Proceeds. The proceeds of any taxes herein authorized to be levied shall be paid over by the county within ten (10) days after their receipt and deposited in the county general fund.

Section 11. Effective Date of Levy. If the governing body of the county elects to levy or impose any of the taxes herein authorized to be levied and imposed, it shall specify, as the effective date of any such levy, the first day of the second month following such levy.

Section 12. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 13. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 9, 1979

Time: 10:00 A.M.

Act No. 79-788

H. 791—Venable, Wyatt

AN ACT

To amend Section 36-27-21.1, Code of Alabama 1975, which provides a cost-of-living increase to certain retired persons so as to allow counties and municipalities to

elect to come under the provisions of the plan at the beginning of any fiscal year.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 36-27-21.1, Code of Alabama 1975, is hereby amended to read as follows:

“§ 36-27-21.1

“(a) Except as hereinafter provided, each person having retired under the provision of statutes governing the teachers’ retirement system or the employees’ retirement system of Alabama prior to October 1, 1977, shall be entitled to receive, in addition to present benefits, a supplemental benefit in an amount based upon his present benefits, according to the following schedule:

Present Benefits (\$ per month)	Supplemental Benefits (\$ per month)
Less than 200.00	60.00
200.00--299.00	40.00
300.00--or over	30.00

“(b) There is hereby appropriated from the Alabama special educational trust fund to the teachers’ retirement system of Alabama the sum of \$6,424,920.00 (estimated), or as much as is necessary to carry out the provisions of this section as they relate to the teachers’ retirement system of Alabama, for the fiscal year beginning October 1, 1978, and for each fiscal year thereafter in which the legislature of Alabama continues to authorize the benefits herein provided.

“To the extent that the provisions of this section apply to the employees’ retirement system of Alabama, there is hereby appropriated from the funds from which salaries are paid the amounts sufficient to carry out the provisions of subsection (a) of this section for the fiscal year beginning October 1, 1978, and for each fiscal year thereafter in which the legislature of Alabama continues to authorize the benefits herein provided. In the case of those departments supported wholly by transfers from other state funds, there is hereby appropriated from the supporting funds such additional amounts as may be necessary to pay the employer contribution of each department so supported in the same proportion as the other state funds contribute to the support and maintenance of such departments for the fiscal year beginning October 1, 1978, and for each fiscal year thereafter in which the legislature of Alabama continues to authorize the benefits herein provided.

“The board of control of the employees’ retirement system of Alabama shall determine annually the amount required to pay the

cost of the increased allowances under subsection (a) of this section and shall notify the chief fiscal officer of each employer the percentum rates of earnable compensation of the members required to be paid to the retirement system. Each employer of members of the employees' retirement system of Alabama shall pay on account of the increases provided in subsection (a) of this section in the same manner and from the same source of funds as is provided in section 36-27-24 of the Code of Alabama, 1975, it being the intent of the legislature that the cost of providing the increases provided in subsection (a) of this section shall be distributed from all funds in proportion to the salaries paid therefrom for active members.

"Subsequent appropriations shall be reduced to only the amount necessary to fund the benefit increases provided in subsection (a) of this section.

"No person whose retirement under the teachers' or state employees' retirement system is based primarily upon service as an employee of a county, municipality or other local employer shall be entitled to the benefits provided in subsection (a) of this section, unless the county, municipality or other local employer by which he was employed elects to come under the provisions of said subsection. Any county, municipality or other local employer making such election must bear the cost of supplemental benefits paid to its former employees pursuant to this section. A county, municipality or other local employer may elect to come under the provisions of this section at the beginning of any future fiscal year and said county, municipality or other local employer shall not be required to pay said supplemental benefits retroactively.

"(c) The cost-of-living benefit provided retirees herein shall remain in effect only so long as the Alabama legislature continues to authorize and fund such benefits. In no way shall this section be interpreted as to constitute a continuing obligation of the funds of the teachers' or employees' retirement systems of Alabama.

"(d) Any person whose eligibility to receive benefits under the Medicaid program would be impaired by the supplemental benefits provided in subsection (a) of this section shall not be entitled to receive said supplemental benefits.

"Any person retired under the judicial retirement system, provided for in chapter 18 of Title 12 of this Code, shall not be deemed a retiree of the teachers' or employees' retirement systems for purposes of this section and shall not be entitled to receive the supplemental benefits herein provided.

"Any person retired under the provisions of sections 36-27-7 and 36-27-7.1 shall not be entitled to the supplemental benefits herein provided.

"(e) The provisions of this section are supplemental. It shall be construed in pari materia with other laws regulating and providing for the payment of retirement benefits to retired members of the teachers' and employees' retirement systems of Alabama; provided however, that those laws or parts of laws which are in direct conflict or inconsistent herewith are hereby repealed."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 9, 1979

Time: 10:00 A.M.

Act No. 79-789	S.J.R. 154—Mitchem, Robertson, St. John, deGraffenried, Bailey, Britnell, Callahan, Clemon, Cook, Denton, Figures, Glass, Goodwin, Gulledege, Hall, Harrison, Higginbotham, Holmes, Keener, Kirkland, Lemaster, Little, McDonald, Martin, Miller, Parsons, Pearson, Proctor, Smith, Taylor, Teague, Vacca, Weeks and White
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SENATE JOINT RESOLUTION

HONORING TAYLOR HARDIN, DISTINGUISHED ALABAMIAN.

WHEREAS, in public service for more than 35 years, General Taylor Hardin's positions in state government have included that of chief of the Criminal Division in the Attorney General's Office, legal counsel to the Department of Examiners of Public Accounts, chief of the Legal Division in the Department of Finance, State Finance Director and that of Mental Health Commissioner, a post he has held since 1974; and

WHEREAS, his military career spanned four years of service in the U. S. Army during World War II where he earned rank of

Lieutenant Colonel and more than 25 years with the Alabama Army National Guard, retiring June 9, 1975 with the rank of General; and

WHEREAS, during his tenure as Mental Health Commissioner, increased public awareness and concern for mental health programs in Alabama are two areas in which great progress has been made; also, increased physical facilities and a decline in patient population have greatly improved the staff-to-patient ratio, while services and treatment have been notably improved; and

WHEREAS, a University of Alabama graduate with both a Bachelor's degree in journalism and a law degree, Taylor Hardin has received numerous awards and honors through the years, most recently being named Alabama Administrator of the Year for 1979 and election to the Alabama Academy of Honor; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we join in tribute to General Taylor Hardin, voicing our deep appreciation of his long and distinguished career in public service in the State of Alabama and in the military, as well.

BE IT FURTHER RESOLVED, That we most heartily congratulate him on his well-deserved retirement, wish him every future success and direct that he receive a copy of this resolution as but a token of our esteem.

Approved August 9, 1979

Time: 9:00 A.M.

Act No. 79-790

S.J.R. 161—Little

SENATE JOINT RESOLUTION

COMMENDING PROFESSOR PAUL C. BURNETT, EMERITUS PROFESSOR OF JOURNALISM, AUBURN UNIVERSITY.

WHEREAS, the Alabama Legislature has noted the recent retirement of Paul C. Burnett, Professor of Journalism, after thirty-one years of faithful service to Auburn University and to the highest principles of American Journalism; and

WHEREAS, since Professor Burnett first became associated with Auburn in 1948, some 7,800 students have come under his

tutelage in all required journalism courses for an English-Journalism major, in Agricultural Journalism and in many English courses as well; also, in 1964, he began a separate journalism major, heading that program until the Department of Journalism was formed ten years later, and he further initiated a successful journalism internship program which has served as a model for many other colleges and universities; and

WHEREAS, called "The Father of Journalism" at Auburn, his greatest accomplishments are evidenced in the success of so many of his students who credit Professor Burnett with their own outstanding accomplishments; imparting his knowledge to others has long been a way of life for Paul C. Burnett and his reward has been to see his students achieve; and

WHEREAS, he was a navigator in the Eighth Air Force during World War II, the recipient of the Air Medal, Purple Heart, Defense Medal and the Victory Medal and, even today, continues to edit "The Ragged Irregulars," a publication unifying his service mates of the war years; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly commend Auburn University's Professor Paul C. Burnett, now emeritus professor of journalism, on his outstanding career, and express our deep appreciation for his years of service to the young men and women of our state who have reaped the rewards of his guidance.

BE IT FURTHER RESOLVED, That Professor Burnett receive a copy of this resolution that he may know of our esteem and of our warm best wishes for every future success.

Approved August 9, 1979

Time: 11:00 A.M.

Act No. 79-791

S.J.R. 165—Cook and Parsons

SENATE JOINT RESOLUTION

CONGRATULATING AND COMMENDING MISS KELLY LEIGH MANN, NATIONAL "YOUNG MISS AMERICA."

WHEREAS, it is with extreme pride and pleasure that the Legislature of Alabama notes the crowning of Bessemer, Alabama's Kelly Leigh Mann as the national and reigning "Young Miss America"; and

WHEREAS, crowned on July 21, 1979, following pageant finals in St. Paul, Minnesota, the lovely Miss Mann had earlier won both the evening gown competition and the first place award for talent; and

WHEREAS, Kelly Leigh Mann, a young and very gifted 15-year-old ballerina, is a sophomore at Bessemer Academy and will attend the University of Alabama School of Ballet on scholarship; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most heartily congratulate Kelly Leigh Mann of Bessemer, Alabama, on her recent selection as the national "Young Miss America," and express our deep appreciation for the fame and honor she has brought to the entire State of Alabama.

BE IT FURTHER RESOLVED, That copies of this resolution be sent both to Miss Mann and to her justifiably proud parents, Mr. and Mrs. William C. Mann, that they may be aware of our pride and of our praise for such a lovely young lady and good will ambassador for our state.

Approved August 9, 1979

Time: 9:00 A.M.

Act No. 79-792

S. 477—Cook

AN ACT

To amend sections 32-9-20, 32-9-21 and 32-9-25 of the Code of Alabama 1975 relating to the length restrictions of certain motor vehicles so as to exclude approved detachable wind deflection devices from such restrictions.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 32-9-20, 32-9-21 and 32-9-25 of the Code of Alabama 1975 are hereby amended to read as follows:

"§ 32-9-20. It shall be unlawful for any person to drive or move on any highway in this state any vehicle or vehicles of a size or weight except in accordance with the following provisions:

"(1) **WIDTH.** No vehicle shall exceed a total outside width, including any load thereon, of eight feet. No vehicle shall be driven or drawn upon a highway with more than four animals abreast. No passenger vehicle shall carry any load extending beyond the line of the fenders. No vehicle hauling forest products or culvert pipe shall have a load exceeding 102 inches in width; provided, that these limits shall not be permitted on any interstate or defense highways

where such limits are prohibited by federal statute.

"(2) HEIGHT. No vehicle or semitrailer shall exceed in height 13 1/2 feet, including load.

"(3) LENGTH. No vehicle shall exceed in length 40 feet; except, that the length of semitrailer trucks, including any part of the body or load, shall not exceed 55 feet, but exclusive of detachable wind deflection devices which have been approved by the state highway department. No vehicle operated on a highway shall carry any load extending more than a total of five feet beyond both the front and rear, inclusive, of the vehicle.

"(4) WEIGHT.

"a. The gross weight imposed on the highway by the wheels of any one axle of a vehicle shall not exceed 20,000 pounds, or such other weight, if any, as may be permitted by federal law to keep the state from losing federal funds; provided, that inadequate bridges shall be posted to define load limits.

"b. For the purpose of this section, an axle load shall be defined as the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes 40 inches apart, extending across the full width of the vehicle.

"c. Subject to the limit upon the weight imposed upon the highway through any one axle as set forth herein, the total weight with load imposed upon the highway by all the axles of a vehicle or combination of vehicles shall not exceed the gross weight given for the respective distances between the first and last axle of the vehicle or combination of vehicles, measured longitudinally to the nearest foot as set forth in the following table:

COMPUTED GROSS WEIGHT TABLE

For various spacings of axle groupings

Distance in feet between first and last axles of vehicle or combination of vehicles		Maximum load in pounds on all the axles			
2 axles	3 axles	4 axles	5 axles	6 axles	
8 or less	36,000	42,000			
9	38,000	42,500			
10	40,000	43,500			
11		44,000			
12		45,000	50,000	50,000	
13		45,500	50,500	50,500	
14		46,500	51,500	51,500	
15		47,000	52,000	52,000	

16	48,000	52,500	58,000	58,000
17	48,500	53,500	58,500	58,500
18	49,500	54,000	59,000	59,000
19	50,000	54,500	60,000	60,000
20	51,000	55,500	60,500	66,000
21	51,500	56,000	61,000	66,500
22	52,500	56,500	61,500	67,000
23	53,000	57,500	62,500	68,000
24	54,000	58,000	63,000	68,500
25	54,500	58,500	63,500	69,000
26	56,000	59,500	64,000	69,500
27	57,000	60,000	65,000	70,000
28	59,000	60,500	65,500	71,000
29	60,000	61,500	66,000	71,500
30		62,000	66,500	72,000
31		63,500	67,000	72,500
32		64,500	68,000	73,500
33		65,000	69,000	74,000
34		65,500	70,000	74,500
35		66,500	71,000	75,000
36		67,000	72,000	76,000
37		68,000	73,000	77,000
38		69,000	74,000	78,000
39		70,000	75,000	79,000
40		71,000	76,000	80,000
41		72,000	77,000	81,000
42		73,000	78,000	82,000
43		74,000	79,000	83,000
44 and over		75,000	80,000	84,000

"Except as provided by special permits, no vehicle or combination of vehicles exceeding the gross weights specified above shall be permitted to travel on the public highways within the state of Alabama.

"No vehicle or combination of vehicles shall be permitted to operate on any portion of the interstate highway system of Alabama that shall have a greater weight than 20,000 pounds carried on any one axle, including all enforcement tolerances, or with a tandem axle weight in excess of 34,000 pounds, including all enforcement tolerances, or with an overall gross weight on a group of two or more consecutive axles produced by application of the following formula:

$$\frac{W=500 (LN \div 12N +36)}{N-1}$$

where W = overall gross weight on any group of two or more

consecutive axles to the nearest 500 pounds, L =distance in feet between the extreme of any group of two or more consecutive axles, and N = number of axles in group under consideration; except, that two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each, provided the overall distance between the first and last axles of such consecutive sets of tandem axles is 36 feet or more; provided, that such overall gross weight may not exceed 80,000 pounds, including all enforcement tolerances. Nothing in this section shall be construed as permitting size or weight limits on the national system of interstate and defense highways in this state in excess of those permitted under 23 U.S.C. section 127. If the federal government prescribes or adopts vehicle size or weight limits greater than or less than those now prescribed by 23 U.S.C. section 127 for the national system of interstate and defense highways, the increased or decreased limits shall become effective on the national system of interstate and defense highways in this state. Nothing in this section shall be construed to deny the operation of any vehicle or combination of vehicles that could be lawfully operated upon the highways and roads of this state on January 4, 1975.

“d. For purposes of enforcement of subdivision (4) of this section, all scaled weights shall be deemed to have a margin of error of 10 percent of the true gross or axle weights.

“e. Dump trucks, dump trailers, concrete mixing trucks, fuel oil, gasoline trucks and trucks designated and constructed for special type work or use shall not be made to conform to the axle spacing requirements of paragraph (4) c of this section; provided, that such vehicle shall be limited to a weight of 20,000 pounds per axle plus scale tolerances; and, provided further, that the maximum gross weight of such vehicles shall not exceed the maximum weight allowed by this section for the appropriate number of axles, irrespective of the distance between axles, plus allowable scale tolerances. All axles shall be brake equipped. Concrete mixing trucks which operate within 50 miles of their home base shall not be required to conform to the requirements of paragraph (4) a of this section; provided, that such vehicles shall be limited to a maximum load of the rated capacity of the concrete mixer, such true gross load not to exceed 66,000 pounds, and all such vehicles shall have at least three axles, each with brake equipped wheels. It shall be a violation if such vehicles named under this subdivision travel upon bridges designated and posted by the highway director as incapable of carrying such load.

“f. If the driver of any vehicle can comply with the weight requirements of this section by shifting or equalizing the load on all

wheels or axles and does so when requested by the proper authority, said driver shall not be held to be operating in violation of this section.

"g. When portable scales are used in the enforcement of the provisions of this section, the axles of any vehicle described or commonly referred to as tandem or triaxle rigs or units (that is, vehicles having two or more axles in addition to a steering axle), the group of tandem or triaxles shall be weighed simultaneously, and the total weight so derived shall be divided by the number of axles weighed in the group to arrive at the per axle weight. When portable scales are used to determine the weight of a vehicle pursuant to this section, the operator of the vehicle will be permitted to move the vehicle to the nearest platform scales certified by the department of agriculture and industries and operated by a bonded operator within a distance of 10 highway miles, accompanied by an enforcement officer to verify the accuracy of the portable scales used in determining the vehicle weight. If the weight of the vehicle is shown by the platform scales to be within the legal limits of this section, the operator of the vehicle shall not be held to be in violation of this section.

"h. The governing body of a county, by appropriate resolution, may authorize limitations less than those prescribed herein for vehicles operated upon the county highways of such county.

"i. The state highway department, for cause, shall have the right to post or limit any road or bridge to weights less than those prescribed by this section. It is the legislative intent and purpose that the provisions of this section be rigidly enforced by the state highway department, the department of public safety and any other authorized law-enforcement officers of the state, any county or city and incorporated towns.

"j. Two and three vehicles being used exclusively for the purpose of transporting agricultural commodities or products to and from a farm and for agricultural purposes relating to the operation and maintenance of a farm by any farmer, custom harvester or husbandman may not be made to conform to the axle requirements of paragraph (4) a of this section or the gross weight requirements of paragraph (4) c of this section.

"§ 32-9-21. (a) The term 'motor bus,' wherever used in this section, shall mean any motor-propelled vehicle used on the highways of this state for the transportation of passengers for hire.

"(b) It shall be lawful to drive or operate upon any highway

in this state any motor bus which shall not exceed 40 feet in length, but exclusive of detachable wind deflection devices which have been approved by the state highway department.

“(c) Nothing contained in this section shall be construed to change in any way any law affecting the regulation of any motor bus except with respect to the maximum permissible length thereof.

“§ 32-9-25. There shall be exempt from the provisions of this article as to length, detachable wind deflection devices which have been approved by the state highway department, loads of poles, logs, lumber, structural steel, piping and timber, and vehicles transporting same.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 9, 1979

Time: 10:00 A.M.

Act No. 79-793

S. 165—Kirkland and Mitchem

AN ACT

To amend Section 9-11-237 of the Code of Alabama 1975, so as to increase the minimum and maximum amount of the fine for any person, firm or corporation convicted of selling, offering or exposing for sale, buying, purchasing, bartering or exchanging anything of value for any game bird or game animal or any part thereof.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 9-11-237 of the Code of Alabama 1975, is hereby amended to read as follows:

“§ 9-11-237.

“Any person, firm or corporation who sells, offers or exposes for sale, buys, purchases, barters or exchanges anything of value for any game bird or game animal or any part thereof at any time shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$250.00 nor more than \$500.00 for each offense; provided, that duly licensed catchers of fur-bearing animals may sell to regularly licensed buyers or dealers only the furs, skins or pelts of fur-bearing animals which they lawfully take, capture or kill; provided further, that such licensed catcher of fur-bearing animals may sell or offer for sale for food the dressed carcass of edible fur-bearing animals named by law or regulations

based thereunder.”

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 9, 1979

Time: 10:00 A.M.

Act No. 79-794

S. 564—McDonald and Smith

AN ACT

Relating to Madison County; to reallocate Madison County's share of payments made by the Tennessee Valley Authority and certain alcoholic beverage tax revenues to the state in lieu of ad valorem taxes; and providing an expiration date.

Be It Enacted by the Legislature of Alabama:

Section 1. Pursuant to the authority granted by Sections 40-28-1 through 40-28-3, Code of Alabama 1975, Madison County's share of payments made by the Tennessee Valley Authority to the state in lieu of ad valorem taxes shall be distributed as provided by this act.

A. To earmark a certain portion of the alcoholic beverage tax revenues accruing to the City of Huntsville under the provisions of Section 40-28-1 through 40-28-3, Code of Alabama 1975, for the purpose of establishing and maintaining a legislative delegation office, the city council shall immediately pay such amounts from such funds as the Madison County legislative delegation may request.

Such requests shall be in the form of a resolution passed by the county legislative delegation, signed by one Senator and one member of the House of Representatives from the county who shall be duly appointed by the delegation. The legislative delegation shall expend such monies to employ staff, acquire adequate physical office space, equipment, supplies, services and all other necessary items. The persons employed and expenditures of the funds by the legislative delegation shall be in their discretion. Any funds allocated but not expended at the end of the fiscal year, in accordance with this subsection, shall revert to the general fund of the city treasury. The revenue and expenditures of the legislative office shall be audited on an annual basis.

B. In the alternative to Subsection A of this section, pursuant

to the authority granted by Section 40-28-2, Code of Alabama 1975, Madison County's share of payments made by the Tennessee Valley Authority to the state in lieu of ad valorem taxes shall be distributed in the following manner:

The first \$40,000 paid, as Madison County's total share, shall be paid to the Madison County Commission for the purposes of establishing and maintaining a legislative delegation office. The Madison County Commission shall immediately pay such amounts from such funds as the Madison County legislative delegation may request. Such requests shall be in the form of a resolution passed by the county legislative delegation, signed by one Senator and one member of the House of Representatives from the county who shall be duly appointed by the legislative delegation. The legislative delegation shall expend such monies to employ staff, acquire adequate physical office space, equipment, supplies, services and all other necessary items. The persons employed and expenditures of the funds by the legislative delegation shall be in their discretion. Any funds allocated but not expended at the end of the fiscal year, in accordance with this subsection, shall revert to the general fund of the county treasury. The revenue and expenditures of the legislative office shall be audited on an annual basis.

C. The remaining money, disbursed pursuant to the authority granted by Section 40-28-2, Code of Alabama 1975, shall be prorated in the following manner:

1. Seventy percent (70%) of said remaining money shall be paid to the City of Huntsville. Said payment shall be distributed in the following manner:

(a) Sixty-five percent (65%) to the city school system to be paid by the city governing body directly to the school system.

(b) Twenty-five percent (25%) to the city general fund.

(c) Ten percent (10%) to City of Huntsville Hospital Authority, provided, however, that if the revenue produced by this percentage formula should exceed \$525,000 in any fiscal year, said excess revenue shall revert to the general fund of the City of Huntsville. The provisions of this subsection shall expire on September 30, 2003, and thereafter said revenue shall revert to the general fund of the City of Huntsville.

2. Twenty-nine and one-half percent (29½%) of said remaining money shall be paid to Madison County. Said payment shall be distributed in the following manner:

(a) Sixty-five percent (65%) to the county school system to be

paid by the county governing body directly to the school system.

(b) Twenty-eight percent (28%) to the county general fund.

(c) Seven percent (7%) to the City of Huntsville Hospital Authority, provided however, that if the revenue produced by this percentage formula shall exceed \$150,000 in any fiscal year, said excess revenue will revert to the general fund of Madison County.

3. One-half percent ($\frac{1}{2}\%$) of said remaining money shall be paid to the remaining incorporated municipalities within Madison County on a per capita basis. Said payments shall be distributed in the following manner:

(a) Sixty-five percent (65%) to the county school system to be paid by the municipal governing body directly to the school system.

(b) Thirty-five percent (35%) to the municipal general fund.

Section 2. The distribution of money as provided by this act shall be continuing and shall remain in effect for one year from the effective date unless sooner altered by general or local law.

Section 3. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this act are hereby repealed.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 9, 1979

Time: 10:00 A.M.

Act No. 79-795

S. 550—deGraffenried and Robertson
AN ACT

To provide for size restrictions of motor vehicles on state highways.

Be It Enacted by the Legislature of Alabama:

Section 1. It shall be unlawful for any person to drive or move on any highway in this state any vehicle or vehicles of a size or weight except in accordance with the following provision:

No vehicle shall exceed in length 40 feet; except, that the length of semitrailer trucks, including any part of the body or load, shall not exceed 60 feet. No vehicle operated on a highway shall carry any

load extending more than a total of five feet beyond both the front and rear, inclusive, of the vehicle.

Section 2. Vehicles previously exempted from the length requirements shall continue to be exempt upon passage of this act.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 9, 1979

Time: 10:00 A.M.

Act No. 79-796

H. 577—Shoemaker, Dial,
Johnson (R.G.), Moore

AN ACT

To amend Act No. 588, S. 660, 1978 Regular Session (Acts of 1978, p. 692), which appropriates money to Alabama Institute for Deaf and Blind to build a sheltered workshop so as to authorize a portion of said money to be used to construct an automotive body and fender shop.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 588, S. 660, 1978 Regular Session (Acts of 1978, p. 692), is hereby amended to read as follows:

“Section 1. There is hereby appropriated \$570,000.00 from the Special Educational Trust Fund to the Adult Department of the Alabama Institute for Deaf and Blind for the construction, erection, maintenance and equipping of a sheltered workshop for the deaf and severely handicapped for the fiscal year ending September 30, 1979. Two hundred thirty-five thousand dollars (\$235,000.00) of said appropriated money shall be used to create an automotive body and fender shop for use by the Adult Department of the Alabama Institute for Deaf and Blind.

“This appropriation shall continue in full force and effect from year to year until said project is completed and shall not revert at the end of any fiscal year. In the event a bond issue is approved providing funds for this purpose, this appropriation shall revert to the Special Educational Trust Fund.”

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 9, 1979

Time: 9:00 A.M.

Act No. 79-797

H. 225—Lewis, Dial, Turner,
 Whatley, Gafford, Hines,
 Biddle, Amari, Pegues,
 Gilmer, Trammell,
 Cheatwood, Carter, Payne,
 Cobb, Dixon, McKee,
 Howard, Williams, Bennett,
 Johnson (R.G.), Holley,
 Wyatt, Ray, Hammett,
 Harper, Stewart, Zoghby,
 Grimsley, Parker, Letson,
 Carothers, Greer, Shoemaker,
 Willis, Seibels, Cates, Sasser,
 Turnham, Bedsole, Campbell,
 Crow, Mitchell, Cosby,
 Brakefield, Blake, Reed,
 Laird, Edwards, Harvey,
 Grouby, Owens, Waggoner,
 Daniels

AN ACT

To provide for a staggered system of registration for the annual issuance of motor vehicle licenses; to provide for five-year annually renewable license plates for private passenger automobiles and pick-up trucks; to provide for interim validation tabs indicative of periodic registration payment; to provide for numeric county prefixes; to provide for the design, manufacture and purchase of license plates and validation tabs; to provide for a penalty for the late registration of motor vehicles and the distribution of penalty fees; to repeal Section 32-6-50, Code of Alabama 1975, which provided for the five-year tags; to amend Section 40-12-265, Code of Alabama 1975, to provide a minimum fine of \$25.00 for improper tags and to authorize county judges of probate or the appropriate licensing authority established by local Act to process the replacement of mutilated and lost tags; to amend Section 40-2-12, Code of Alabama 1975, to allow the destruction of source documents after microfilming upon validation of the reproduction; to amend Section 40-12-271, Code of Alabama 1975, to increase the license issuance fee for probate judges and license commissioners; and to create a joint legislative committee to oversee the implementation of this Act.

Be It Enacted by the Legislature of Alabama:

Section 1. Effective from and after October 1, 1980, the licensing, registration and ad valorem taxation of motor vehicles in compliance with the laws of the State of Alabama shall be on a staggered basis.

To implement this Act, the licensing, registration and taxation may be for periods less than or greater than twelve months during the conversion year only. However, such proration of fees during the implementation of a staggered registration system shall result in the collection of a total amount of monies for the taxable year no more nor less than the current annual amounts received.

During the implementation period and thereafter the licensing, registration and taxation for vehicles weighing 12,000 pounds and over shall be prorated on a monthly basis.

Section 2. The staggered system for the licensing, registration and taxation of motor vehicles shall be implemented thusly: The first letter of an individual's last name shall determine the month in which a vehicle owner shall register his vehicle(s), as indicated below:

January	- - A, D	June	- - M, I
February	- - B	July	- - P, L
March	- - C, E	August	- - J, K, R
April	- - F, G, N	September	- - Q, S, T
May	- - H, O	October	- - U, V, W, X, Y, Z
November	- - Trucks, mobile homes, commercial fleets, etc.		
December	- - Trucks, mobile homes, commercial fleets, etc.		

After the conversion period all owners of passenger vehicles and pick-up trucks shall register their vehicles over a twelve-month period. All fleets and commercial vehicles shall be registered during the months of October and November.

Section 3. The license plates for private passenger automobiles and pick-up trucks, such truck being defined as any truck with two axles and a gross weight not exceeding 12,000 pounds, shall be valid for five years and shall be replaced at the end of that period. License plates for all other vehicles shall be valid for one year and shall be replaced at the end of that period.

Section 4. For the years during which the five-year license plates are not issued, in lieu thereof, tabs, stamps, or other devices suitable for attaching to a motor vehicle license plate shall be issued. The tab, stamp or device shall indicate the period for which it was issued and shall, when properly affixed to the license plate, evidence payment for the motor vehicle license fees and taxes for the period indicated thereon. Such tab, stamp or device shall be such size as the legislative oversight committee, as provided for in this act, deems appropriate and shall bear a bright reflective background contrasting with the digits or letters printed thereon. The first three letters of the month of expiration shall be printed on

the bottom portion of said tab, stamp or device and shall be no less than three inches in width and one inch in height.

Any numbers shown on such tab, stamp or device shall be for accounting purposes only, to be used by the department of revenue, and shall in no way be used for the identification of the vehicle.

A person changing his county of residence shall be required to purchase a license plate indicating his new county or residence upon expiration of the license period covered by his present license plate or validation device and shall turn in his old license plate.

Section 5. The design of license plates, including all emblems, slogans, symbols or characters appearing thereon, shall be by regulation as promulgated by the revenue commissioner, and as otherwise specified by law. However, the face of the license plate to be displayed shall be fully treated with a retroflective material which will increase the nighttime visibility and legibility of the plate. There shall also be provided a special license plate for handicapped persons who operate their motor vehicles with hand controls which shall be specially colored red, white and blue. The purchase of these tags shall be optional with the vehicle owner, who shall bear the cost of such plates, and in no way shall the purchase of these tags be construed as mandatory.

Characters on the license plate which designate the county of issuance shall be numeric, and all numerals on said plates shall be no smaller than 2-3/4 inches in height. The following numbering scheme shall be used:

(1) Jefferson County, 1; Mobile County, 2; Montgomery County, 3.

(2) All other counties shall be ranked alphabetically and assigned consecutive numbers beginning with 4 and concluding with 67.

The board of corrections is directed to supply all license plates and revalidation devices required under this Act. The amounts charged by the board of corrections for the manufacture of revalidation devices shall not be less than that charged for the manufacture of license plates on a per item basis.

The board of corrections is hereby required to maintain an accurate system of record-keeping which shall trace and account for the handling and distribution of each plate and revalidation device throughout the manufacturing process until such items are distributed to each county.

After the five-year tag has been in use for a period of three years the Board of Corrections is hereby directed to manufacture

all subsequent tags for the remaining two years of such period from a metal of less durability and quality than the metal used in manufacturing the five-year tags.

Section 6. There shall be one uniform registration renewal form to be used statewide. Such form shall be designed so as to provide for both the transfer of ownership and the registration of the vehicle. The department of revenue, or any other state agency authorized to do so, shall print and issue vehicle registration renewal notices in such a way that they can be processed or read by "optical character reader" machines. All receipts shall be sent to the county agencies charged with handling vehicle registration. This paragraph shall not give the department of revenue authority to centralize vehicle registration. Centralized registration is specifically prohibited and it is the legislative intent that automotive vehicle registration shall remain at the county level.

A penalty of \$5.00 shall be assessed by the official charged with issuing motor vehicle licenses for the late registration of a motor vehicle under the system of registration imposed by this Act. Licenses shall be renewed at any time during the month of expiration; provided, however, persons renewing licenses within ten calendar days after the month of expiration shall pay only a \$2.00 penalty fee. This fee shall not be construed as coming under the requirements of Section 40-12-269.

Section 7. Section 40-12-265, Code of Alabama 1975, is amended to read as follows:

"§ 40-12-265.

"(a) It shall be unlawful for any person to mutilate or alter for the purpose of deception any motor vehicle tag, plate or validation stamp or to use upon any motor vehicle any tags, plates or validation stamps in limitation of or substitution for authorized issued tags, plates or validation stamps. It shall be the duty of all sheriffs, police officers, state troopers, license inspectors, deputy license inspectors and field agents of the department of revenue to arrest any person violating the provisions of this section, and upon conviction of any such person a fine of not less than \$25.00 nor exceeding \$100.00 shall be imposed for each offense. The license inspector shall receive a fee of \$1.50 for making such arrest which arrest fee shall be collected as a part of the costs in any such action before a court of competent jurisdiction.

"(b) In case the tag, plate or validation stamp become so mutilated as to make it illegible, the owner of the vehicle must file with the county probate judge, an application setting forth the facts that the tag, plate or validation stamp or one of them has been lost,

mutilated or destroyed; and, upon payment of \$2.00 and the surrender of the tag, which if mutilated the probate judge or the appropriate licensing authority established by local Act shall forward \$1.00 to the state department of revenue, and shall issue without additional charge a tag or validation stamp to the applicant. The probate judge or the appropriate licensing authority established by local Act shall retain \$1.00 for his service. Should the lost tag or plate be recovered or come into the possession of such applicant, he must immediately deliver same to the probate judge or the appropriate licensing authority established by local Act. Should any person use upon any motor vehicle the old tag or validation stamp, he shall be guilty of a misdemeanor and upon conviction be fined as provided in subsection (a) of this section, and shall in addition be required to procure a proper license at the annual rate levied for such license.

“(c) Any person using a motor vehicle with improper license, plate or validation stamp, or failing to have tag, plate or validation stamp properly displayed, shall be notified in writing by the license inspector or field agent. If after five days from the date of such notice said person fails or refuses to comply with said notice, the license inspector shall thereupon issue citation to such person to appear instanter and procure such proper license or, in the case of mutilated or lost license plate or validation stamp, to make the application and pay the amount as herein provided; where such person is cited for improperly displaying the license plate or validation stamp and fails or refuses to comply with the citation of the license inspector, such person shall be arrested and, upon conviction, fined as herein provided. In each case where the citation has been served in accordance herewith, the license inspector shall be entitled to a citation fee of \$1.50.”

Section 8. Section 40-2-12, Code of Alabama 1975, is hereby amended to read as follows:

“§ 40-2-12.

“The commissioner of revenue of the State of Alabama is authorized to make or to have made microfilm copies, photostatic copies or other similar photographic reproductions of any books, records, returns, files, minutes, letters, correspondence, motor vehicle registration cards, reports, petitions, permits, applications, receipts, assessments, notices and any other document required to be maintained or kept by the department of revenue or any agency, division or employee thereof. The commissioner of revenue is authorized to destroy or cause to be disposed of, at any time after validation of the reproduction, any or the above named documents

which have been microfilmed, photostated or otherwise photographed. Such microfilm, photostat or other photograph shall be retained and kept in lieu of such documents required to be kept or maintained."

Section 9. Section 40-12-271, Code of Alabama 1975, is hereby amended to read as follows:

"§ 40-12-271.

"The probate judge or license commissioner of the county, for issuing the licenses required by this article or by any other law prescribing licenses for operating motor vehicles, shall be allowed a fee of \$1.25 issuing each license for operating motor vehicles. Such fees shall be paid to the probate judge or license commissioner of the county by the owner at the time of the issuance of the license tag."

Section 10. It is hereby specifically provided that this Act shall be construed in *pari materia* with Sections 32-8-32 and 32-8-33, Code of Alabama 1975.

Section 11. There is hereby created a legislative committee to oversee the implementation and administration of this Act. Such committee shall be composed of three members of the House of Representatives, who shall be appointed by the Speaker of the House, and serve at his pleasure, and three members of the Senate, who shall be appointed by the Lieutenant Governor, who shall serve at his pleasure, the Director of the Alabama Criminal Justice Information Center, the Director of Public Safety, and the President of the Probate Judges Association. The chairman who shall be picked by the members of the committee from the legislative members on the committee, shall have the authority to call meetings of the committee when he deems it necessary.

Upon the request of the chairman, the Secretary of the Senate and the Clerk of the House shall provide such clerical assistance as may be necessary for the committee's work.

Section 12. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 13. All laws or parts of laws which conflict with this Act are repealed, specifically Section 32-6-50, Code of Alabama 1975.

Section 14. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 9, 1979

Time: 11:00 A.M.

Act No. 79-798

H. 138—Carothers

AN ACT

To amend Section 22-21-20, Code of Alabama, 1975, which relates to the Licensing of Hospitals, Nursing Homes and other Health Care Institutions so as to include other types of services that are now being provided the citizens. This amendment will expand the definitions to include new institutional care and services.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 22-21-20, Code of Alabama, 1975, is hereby amended so as to read as follows:

“Section 22-21-20. Definitions. For the purpose of this article, the following terms shall have the meanings respectively ascribed to them by this section:

(1) **HOSPITALS.** The term “hospital” means general and specialized hospitals, including ancillary services; independent clinical laboratories; rehabilitation centers; ambulatory surgical treatment facilities for patients not requiring hospitalization; end stage renal disease treatment and transplant centers, including free-standing hemodialysis units; abortion or reproductive health centers, health maintenance organizations; and other related health care institutions when such institution is primarily engaged in offering to the public generally, facilities and services for the diagnosis and/or treatment of injury, deformity, disease, surgical or obstetrical care. Also included within the term are long term care facilities such as, but not limited to, skilled nursing facilities, intermediate care facilities, homes for the aged, domiciliary care facilities and related health care institutions when such institution is primarily engaged in offering room, board, laundry and personal assistance with activities of daily living and incidentals thereto. The term “hospitals” relates to health care institutions and shall not include the private offices of physicians or dentists, whether in individual, group, professional corporation or professional association practice. This Act shall not apply to County or District Health Departments.

(2) **PERSON.** Such term includes individuals, partnerships, corporations and associations.

Section 2. The provisions of this Act are severable. If any part is declared unconstitutional or invalid, such declaration shall not affect the part which remains.

Section 3. This Act is intended to relate entirely to the operation and conduct of hospitals as herein defined and is not intended to have affect on any other laws except to the extent in conflict with positive provisions hereof.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 9, 1979

Time: 10:00 A.M.

Act No. 79-799

H. 174—Biddle

AN ACT

To authorize the director of the department of public safety to restrict driving in the extreme left side in any portion of any interstate highway, or of any highway of sufficient width, except for overtaking and passing; and to provide notice to the state highway director.

Be It Enacted by the Legislature of Alabama:

Section 1. Any law to the contrary notwithstanding, the director of the department of public safety is hereby authorized to restrict driving in the extreme left side in any portion of any interstate highway, or of any highway of sufficient width, except for overtaking and passing. He may issue any reasonable rules and regulations necessary to implement this act.

Section 2. The director of public safety shall give appropriate notice to the state highway director of the locations of any portions of highways designated as restricted pursuant to the provisions of Section 1 of this act so that appropriate markers or other equipment may be erected by the state highway department.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise

becoming a law.

Approved August 9, 1979

Time: 10:00 A.M.

Act No. 79-800

H. 205—Stout, Gafford, Rains

AN ACT

To amend the Code of Alabama 1975, relative to the time and place of holding primary elections, canvassing, reporting and declaring results, and filing contests.

Be It Enacted by the Legislature of Alabama:

Section 1. Code of Alabama 1975, Section 17-16-6, is hereby amended to read as follows:

“§ 17-16-6.

“Primary elections, except special primary elections and presidential preference primaries, held at the expense of the state or counties, shall be held on the first Tuesday after the first Monday in September. When necessary, as provided in this chapter, a second or runoff primary election shall be held on the third Tuesday next thereafter following said primary election. Any second primary shall be held by the same election officers who held the first primary, and be held at the same places as the first primary election. No primary shall be held by any political party except as herein provided. Primary elections herein provided for shall be held at the regular polling places established for the purpose of holding general elections.”

Section 2. Code of Alabama 1975, Section 17-16-35 is amended to read as follows:

“§ 17-16-35. The county executive committee of the party or parties participating in said primary election shall meet at the courthouse of its county, not later than noon on Wednesday next following said primary election, and receive said returns, canvass and tabulate the same, by precincts, and publicly declare the results thereof. The chairman of each county executive committee shall forthwith, and not later than noon on the Friday next following said primary election, certify and return to the chairman of the state executive committee a statement and tabulation, by precincts, of the result of said primary election and of the number of votes received by each candidate therein for office, except candidates for county office. Not later than noon on the Monday next following such primary election, the state executive

committee, or such subcommittee thereof as may have been appointed by the chairman thereof for such purpose, shall meet at the state Capitol in Montgomery and receive said returns, canvass and tabulate the same by counties and publicly declare on that day the results thereof as to all candidates for office therein, except candidates for county office, which results shall be final."

Section 3. Code of Alabama 1975, Section 17-17-36 is amended to read as follows:

"§ 17-16-36. (a) At the respective meetings of the respective executive committees, said county executive committee shall, as to candidates in said primary election for office, except candidates for county office, publicly ascertain, determine and declare whether any candidate for office in said primary election has received a majority of the votes cast for the office, and, if so, declare said candidate the nominee of the party for the office for which he was a candidate and for which he received a majority of the votes cast for that office in said primary election.

"(b) If no candidate receives a majority of all of the votes cast in such primary election for any one office or offices for the nomination to which there were more than two candidates, then there shall be held a second primary election on the third Tuesday next thereafter following said primary election, and the chairman of the state executive committee shall certify to the secretary of state, immediately upon the completion of such canvass as aforesaid, the names of the two candidates of his party to receive the highest number of votes in the first primary election for such office or offices, except county officers, and who are to be voted for in the second primary election. The chairman of each county executive committee shall, immediately upon the completion of such canvass, certify to the probate judge of the county the names of the two candidates who received the highest number of votes in the first primary for nomination to any county office. The secretary of state shall, within not more than six days from the date said certificate is received from the chairman of the state executive committee, certify to the probate judge of any county where a second primary election is to be held the name or names of the candidates certified to him as herein provided by the chairman of the state executive committee. The probate judge of each county in Alabama shall in the manner and form as required by this chapter and the general laws of Alabama, have prepared and printed all election supplies and all ballots to be voted in the second primary election, which ballots shall contain, under appropriate headings or titles of the offices to be filled, the names of the two candidates for each office so certified to him by the secretary of state and the chairman of the

county executive committee, as herein required, as well as such other matters as are required by this chapter and the general laws of Alabama, on ballots for the first primary election.

“(c) At the second primary election, no person can be a candidate except the two persons who receive the highest number of votes for the offices for which they were candidates in the first primary election.

“(d) The returns from the second primary election shall be made and the votes canvassed, tabulated and certified and the results declared in the same manner provided in this chapter for making, canvassing, tabulating, certifying and declaring the results of the first primary election. The county executive committee of the parties participating in said primary election shall meet at the courthouse of their respective counties not later than Wednesday next following the second primary election and receive said returns, canvass and tabulate the same by precinct and publicly declare the results thereof. The chairman of each county executive committee shall forthwith, and not later than noon on the Friday next following said primary election, certify and return to the chairman of the state executive committee a statement and tabulation by precincts of the results of the second primary election and of the number of votes received by each candidate for office therein voted for except candidates for county office. Not later than noon on the Monday next following the second primary election, the state executive committee, or such subcommittee thereof as may have been appointed by the chairman thereof for such purpose, shall meet at the state Capitol in Montgomery and receive said returns and canvass and tabulate the same by counties, and publicly declare on that day the result thereof as to all candidates voted for, except as to candidates for county office which results shall be final. At said respective meetings of said respective executive committees, said county executive committee shall, as to candidates for county office voted for in the second primary election, and said state executive committee shall, as to candidates for office in the second primary election voted for therein, except candidates for county office, publicly ascertain and determine the candidates receiving a majority of all of the votes cast in such second primary election for any one office, and the candidates so ascertained and determined to have received a majority of all of the votes cast in such second primary election for said office shall be declared the nominee of the party for such office by said respective county and state executive committees. Thereupon and immediately upon the completion of such canvass as aforesaid, the chairman thereof shall certify to and file with the probate judge of

his county the names of those who have been nominated in the first or the second primary election or as otherwise authorized or provided by this chapter, as candidates of his party for county offices; and in like manner, and immediately upon the completion of such canvass, as aforesaid by the state executive committee, or subcommittee thereof, the chairman of the state executive committee shall certify to and file with the secretary of state the names of those who have been nominated in the first or second primary election or as otherwise authorized or provided by this chapter as candidates of his party for office, except candidates for county office, and the names of the persons so certified shall be placed upon the official ballot of the general election to be held in November next thereafter as the candidates of the party for the offices for which they, respectively, have been so nominated."

Section 4. Code of Alabama 1975, Section 17-16-70, is amended to read as follows:

"§ 17-16-70.

"All nominations made by primary election may be contested within twenty-four hours after the results of the primary election have been declared, weekends excluded, under the same conditions and on the same grounds as provided in the laws of Alabama for general elections of state and county officers and as provided in this chapter. Such contest shall be heard and tried by the county executive committee as to candidates for county offices and by the state committee as to candidates for all other offices; and wherever there is no county executive committee consisting of enough members to obtain a quorum then by the state executive committee."

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 9, 1979

Time: 10:00 A.M.

Act No. 79-801

H. 267—Cates, Gafford, Edwards

AN ACT

To amend Title 5, Section 185, Alabama Code, relating to directors of banks or trust companies doing a banking business organized under Alabama law; to change the residence requirements by providing that at least fifty-one percent of the directors of every such bank or trust company shall be residents of the State of Alabama.

Be It Enacted by the Legislature of Alabama:

Section 1. Title 5, Section 185, Alabama Code, is hereby amended so as to read as follows:

“Section 185. Directors of banks or trust companies must own stock in company--Every director of a bank or a trust company doing a banking business, shall be the owner and holder of shares of stock in the bank or trust company, having a par value of at least two hundred dollars, and every such director shall hold such shares in his own name, unpledged and unencumbered in any way except statutory lien which might attach in favor of such corporation. Any director, at any time, violating any of the provisions of this section, shall be removed from office by the board of directors or by the superintendent of banks, when the facts are made known to him. At least fifty-one percent of the directors of every such bank or trust company shall be residents of the state and at least seventy-five percent of the directors of every such bank or trust company shall be residents of this state or residents of a state contiguous to Alabama.

Section 2. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws in conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 9, 1979

Time: 10:00 A.M.